107TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { 107–394

TAXPAYER PROTECTION AND IRS ACCOUNTABILITY ACT OF 2002

APRIL 9, 2002.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. THOMAS, from the Committee on Ways and Means, submitted the following

R E P O R T

[To accompany H.R. 3991]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 3991) the Taxpayer Protection and IRS Accountability Act of 2002, to amend the Internal Revenue Code of 1986 to provide for increased fairness to taxpayers, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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99–006

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This Act may be cited as the "Taxpayer Protection and IRS Accountability Act of 2002".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—

TITLE I—PENALTIES AND INTEREST

SEC. 101. FAILURE TO PAY ESTIMATED TAX PENALTY CONVERTED TO INTEREST CHARGE ON ACCUMULATED UNPAID BALANCE.

(a) PENALTY MOVED TO INTEREST CHAPTER OF CODE.—The Internal Revenue Code of 1986 is amended by redesignating section 6654 as section 6641 and by moving section 6641 (as so redesignated) from part I of subchapter A of chapter 68 to the end of subchapter E of chapter 67 (as added by subsection (e)(1) of this section).

(b) PENALTY CONVERTED TO INTEREST CHARGE.—The heading and subsections (a) and (b) of section 6641 (as so redesignated) are amended to read as follows:

"SEC. 6641. INTEREST ON FAILURE BY INDIVIDUAL TO PAY ESTIMATED INCOME TAX.

"(a) IN GENERAL.—Interest shall be paid on any underpayment of estimated tax by an individual for a taxable year for each day of such underpayment. The amount of such interest for any day shall be the product of the underpayment rate established under subsection (b)(2) multiplied by the amount of the underpayment.

"(b) AMOUNT OF UNDERPAYMENT; INTEREST RATE.—For purposes of subsection (a)—

"(1) AMOUNT.—The amount of the underpayment on any day shall be the excess of—

"(A) the sum of the required installments for the taxable year the due dates for which are on or before such day, over

"(B) the sum of the amounts (if any) of estimated tax payments made on or before such day on such required installments.

"(2) DETERMINATION OF INTEREST RATE.—

"(A) IN GENERAL.—The underpayment rate with respect to any day in an installment underpayment period shall be the underpayment rate established under section 6621 for the first day of the calendar quarter in which such installment underpayment period begins.

"(B) INSTALLMENT UNDERPAYMENT PERIOD.—For purposes of subparagraph (A), the term 'installment underpayment period' means the period beginning on the day after the due date for a required installment and ending on the due date for the subsequent required installment (or in the case of the 4th required installment, the 15th day of the 4th month following the close of a taxable year).

"(C) DAILY RATE.—The rate determined under subparagraph (A) shall be applied on a daily basis and shall be based on the assumption of 365 days in a calendar year.

"(3) TERMINATION OF ESTIMATED TAX INTEREST.—No day after the end of the installment underpayment period for the 4th required installment specified in paragraph (2)(B) for a taxable year shall be treated as a day of underpayment with respect to such taxable year.".

(c) INCREASE IN SAFE HARBOR WHERE TAX IS SMALL.—

(1) IN GENERAL.—Clause (i) of section 6641(d)(1)(B) (as so redesignated) is amended to read as follows:

"(i) the lesser of—

"(I) 90 percent of the tax shown on the return for the taxable year (or, if no return is filed, 90 percent of the tax for such year), or

"(II) the tax shown on the return for the taxable year (or, if no return is filed, the tax for such year) reduced (but not below zero) by $2,000, or".

(2) CONFORMING AMENDMENT.—Subsection (e) of section 6641 (as so redesignated) is amended by striking paragraph (1) and redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(d) CONFORMING AMENDMENTS.—

(1) Paragraphs (1) and (2) of subsection (e) (as redesignated by subsection (c)(2)) and subsection (h) of section 6641 (as so designated) are each amended by striking "addition to tax" each place it occurs and inserting "interest".

(2) Section 167(g)(5)(D) is amended by striking "6654" and inserting "6641".

(3) Section 460(b)(1) is amended by striking "6654" and inserting "6641".

(4) Section 3510(b) is amended—

(A) by striking "section 6654" in paragraph (1) and inserting "section 6641";

(B) by amending paragraph (2)(B) to read as follows:

"(B) no interest would be required to be paid (but for this section) under 6641 for such taxable year by reason of the $2,000 amount specified in section 6641(d)(1)(B)(i)(II).";

(C) by striking "section 6654(d)(2)" in paragraph (3) and inserting "section 6641(d)(2)"; and

(D) by striking paragraph (4).

(5) Section 6201(b)(1) is amended by striking "6654" and inserting "6641".

(6) Section 6601(h) is amended by striking "6654" and inserting "6641".

(7) Section 6621(b)(2)(B) is amended by striking "addition to tax under section 6654" and inserting "interest required to be paid under section 6641".

(8) Section 6622(b) is amended—

(A) by striking "PENALTY FOR" in the heading; and

(B) by striking "addition to tax under section 6654 or 6655" and inserting "interest required to be paid under section 6641 or addition to tax under section 6655".

(9) Section 6658(a) is amended—

(A) by striking "6654, or 6655" and inserting "or 6655, and no interest shall be required to be paid under section 6641,"; and

(B) by inserting "or paying interest" after "the tax" in paragraph (2)(B)(ii).

(10) Section 6665(b) is amended—

(A) in the matter preceding paragraph (1) by striking ", 6654,"; and

(B) in paragraph (2) by striking "6654 or".

(11) Section 7203 is amended by striking "section 6654 or 6655" and inserting "section 6655 or interest required to be paid under section 6641".

(e) CLERICAL AMENDMENTS.—

(1) Chapter 67 is amended by inserting after subchapter D the following:

"Subchapter E—Interest on Failure by Individual to Pay Estimated Income Tax

"Sec. 6641. Interest on failure by individual to pay estimated income tax.".

(2) The table of subchapters for chapter 67 is amended by adding at the end the following new item:

"Subchapter E. Interest on failure by individual to pay estimated income tax.".

(3) The table of sections for part I of subchapter A of chapter 68 is amended by striking the item relating to section 6654.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to installment payments for taxable years beginning after December 31, 2002.

SEC. 102. EXCLUSION FROM GROSS INCOME FOR INTEREST ON OVERPAYMENTS OF INCOME TAX BY INDIVIDUALS.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by inserting after section 139 the following new section:

"SEC. 139A. EXCLUSION FROM GROSS INCOME FOR INTEREST ON OVERPAYMENTS OF INCOME TAX BY INDIVIDUALS.

"(a) IN GENERAL.—In the case of an individual, gross income shall not include interest paid under section 6611 on any overpayment of tax imposed by this subtitle.

"(b) EXCEPTION.—Subsection (a) shall not apply in the case of a failure to claim items resulting in the overpayment on the original return if the Secretary determines that the principal purpose of such failure is to take advantage of subsection (a).

"(c) SPECIAL RULE FOR DETERMINING MODIFIED ADJUSTED GROSS INCOME.—For purposes of this title, interest not included in gross income under subsection (a) shall not be treated as interest which is exempt from tax for purposes of sections 32(i)(2)(B) and 6012(d) or any computation in which interest exempt from tax under this title is added to adjusted gross income.".

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by inserting after the item relating to section 139 the following new item:

"Sec. 139A. Exclusion from gross income for interest on overpayments of income tax by individuals.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to interest received in calendar years beginning after the date of the enactment of this Act.

SEC. 103. ABATEMENT OF INTEREST.

(a) ABATEMENT OF INTEREST WITH RESPECT TO ERRONEOUS REFUND CHECK WITHOUT REGARD TO SIZE OF REFUND.—Paragraph (2) of section 6404(e) is amended by striking "unless—" and all that follows and inserting "unless the taxpayer (or a related party) has in any way caused such erroneous refund.".

(b) ABATEMENT OF INTEREST TO EXTENT INTEREST IS ATTRIBUTABLE TO TAXPAYER RELIANCE ON WRITTEN STATEMENTS OF THE IRS.—Subsection (f) of section 6404 is amended—

(1) in the subsection heading, by striking "PENALTY OR ADDITION" and inserting "INTEREST, PENALTY, OR ADDITION"; and

(2) in paragraph (1) and in subparagraph (B) of paragraph (2), by striking "penalty or addition" and inserting "interest, penalty, or addition".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to interest accruing on or after the date of the enactment of this Act.

SEC. 104. DEPOSITS MADE TO SUSPEND RUNNING OF INTEREST ON POTENTIAL UNDERPAYMENTS.

(a) IN GENERAL.—Subchapter A of chapter 67 (relating to interest on underpayments) is amended by adding at the end the following new section:

"SEC. 6603. DEPOSITS MADE TO SUSPEND RUNNING OF INTEREST ON POTENTIAL UNDERPAYMENTS, ETC.

"(a) AUTHORITY TO MAKE DEPOSITS OTHER THAN AS PAYMENT OF TAX.—A taxpayer may make a cash deposit with the Secretary which may be used by the Secretary to pay any tax imposed under subtitle A or B or chapter 41, 42, 43, or 44 which has not been assessed at the time of the deposit. Such a deposit shall be made in such manner as the Secretary shall prescribe.

"(b) NO INTEREST IMPOSED.—To the extent that such deposit is used by the Secretary to pay tax, for purposes of section 6601 (relating to interest on underpayments), the tax shall be treated as paid when the deposit is made.

"(c) RETURN OF DEPOSIT.—Except in a case where the Secretary determines that collection of tax is in jeopardy, the Secretary shall return to the taxpayer any amount of the deposit (to the extent not used for a payment of tax) which the taxpayer requests in writing.

"(d) PAYMENT OF INTEREST.—

"(1) IN GENERAL.—For purposes of section 6611 (relating to interest on overpayments), a deposit which is returned to a taxpayer shall be treated as a payment of tax for any period to the extent (and only to the extent) attributable to a disputable tax for such period. Under regulations prescribed by the Secretary, rules similar to the rules of section 6611(b)(2) shall apply.

"(2) DISPUTABLE TAX.—

"(A) IN GENERAL.—For purposes of this section, the term 'disputable tax' means the amount of tax specified at the time of the deposit as the taxpayer's reasonable estimate of the maximum amount of any tax attributable to disputable items.

"(B) SAFE HARBOR BASED ON 30-DAY LETTER.—In the case of a taxpayer who has been issued a 30-day letter, the maximum amount of tax under subparagraph (A) shall not be less than the amount of the proposed deficiency specified in such letter.

"(3) OTHER DEFINITIONS.—For purposes of paragraph (2)—

"(A) DISPUTABLE ITEM.—The term 'disputable item' means any item of income, gain, loss, deduction, or credit if the taxpayer—

"(i) has a reasonable basis for its treatment of such item, and

"(ii) reasonably believes that the Secretary also has a reasonable basis for disallowing the taxpayer's treatment of such item.

"(B) 30-DAY LETTER.—The term '30-day letter' means the first letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals.

"(4) RATE OF INTEREST.—The rate of interest allowable under this subsection shall be the Federal short-term rate determined under section 6621(b), compounded daily.

"(e) USE OF DEPOSITS.—

"(1) PAYMENT OF TAX.—Except as otherwise provided by the taxpayer, deposits shall be treated as used for the payment of tax in the order deposited.

"(B) RETURNS OF DEPOSITS.—Deposits shall be treated as returned to the taxpayer on a last-in, first-out basis.".

(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 67 is amended by adding at the end the following new item:

"Sec. 6603. Deposits made to suspend running of interest on potential underpayments, etc.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to deposits made after the date of the enactment of this Act.

(2) COORDINATION WITH DEPOSITS MADE UNDER REVENUE PROCEDURE 84–58.—In the case of an amount held by the Secretary of the Treasury or his delegate on the date of the enactment of this Act as a deposit in the nature of a cash bond deposit pursuant to Revenue Procedure 84–58, the date that the taxpayer identifies such amount as a deposit made pursuant to section 6603 of the Internal Revenue Code (as added by this Act) shall be treated as the date such amount is deposited for purposes of such section 6603.

SEC. 105. EXPANSION OF INTEREST NETTING FOR INDIVIDUALS.

(a) IN GENERAL.—Subsection (d) of section 6621 (relating to elimination of interest on overlapping periods of tax overpayments and underpayments) is amended by adding at the end the following: "Solely for purposes of the preceding sentence, section 6611(e) shall not apply in the case of an individual.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to interest accrued after December 31, 2002.

SEC. 106. WAIVER OF CERTAIN PENALTIES FOR FIRST-TIME UNINTENTIONAL MINOR ERRORS.

(a) IN GENERAL.—Section 6651 (relating to failure to file tax return or to pay tax) is amended by adding at the end the following new subsection:

"(i) TREATMENT OF FIRST-TIME UNINTENTIONAL MINOR ERRORS.—In the case of a return of tax imposed by subtitle A filed by an individual, the Secretary may waive an addition to tax under subsection (a) if—

"(1) the individual has a history of compliance with the requirements of this title,

"(2) it is shown that the failure is due to an unintentional minor error,

"(3) the penalty would be grossly disproportionate to the action or expense that would have been needed to avoid the error, and

"(4) waiving the penalty would promote compliance with the requirements of this title and effective tax administration.

The preceding sentence shall not apply if the Secretary has waived any addition to tax under this subsection with respect to any prior failure by such individual.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on January 1, 2003.

SEC. 107. FRIVOLOUS TAX SUBMISSIONS.

(a) CIVIL PENALTIES.—Section 6702 is amended to read as follows:

"SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.

"(a) CIVIL PENALTY FOR FRIVOLOUS TAX RETURNS.—A person shall pay a penalty of $5,000 if—

"(1) such person files what purports to be a return of a tax imposed by this title but which—

"(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

"(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

"(2) the conduct referred to in paragraph (1)—

"(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or

"(B) reflects a desire to delay or impede the administration of Federal tax laws.

"(b) CIVIL PENALTY FOR SPECIFIED FRIVOLOUS SUBMISSIONS.—

"(1) IMPOSITION OF PENALTY.—Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of $5,000.

"(2) SPECIFIED FRIVOLOUS SUBMISSION.—For purposes of this section—

"(A) SPECIFIED FRIVOLOUS SUBMISSION.—The term 'specified frivolous submission' means a specified submission if any portion of such submission—

"(i) is based on a position which the Secretary has identified as frivolous under subsection (c), or

"(ii) reflects a desire to delay or impede the administration of Federal tax laws.

"(B) SPECIFIED SUBMISSION.—The term 'specified submission' means—

"(i) a request for a hearing under—

"(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or

"(II) section 6330 (relating to notice and opportunity for hearing before levy), and

"(ii) an application under—

"(I) section 7811 (relating to taxpayer assistance orders),

"(II) section 6159 (relating to agreements for payment of tax liability in installments), or

"(III) section 7122 (relating to compromises).

"(3) OPPORTUNITY TO WITHDRAW SUBMISSION.—If the Secretary provides a person with notice that a submission is a specified frivolous submission and such person withdraws such submission promptly after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission.

"(c) LISTING OF FRIVOLOUS POSITIONS.—The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall not include in such list any position that the Secretary determines meets the requirement of section 6662(d)(2)(B)(ii)(II).

"(d) REDUCTION OF PENALTY.—The Secretary may reduce the amount of any penalty imposed under this section if the Secretary determines that such reduction would promote compliance with and administration of the Federal tax laws.

"(e) PENALTIES IN ADDITION TO OTHER PENALTIES.—The penalties imposed by this section shall be in addition to any other penalty provided by law.".

(b) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS BEFORE LEVY.—

(1) FRIVOLOUS REQUESTS DISREGARDED.—Section 6330 (relating to notice and opportunity for hearing before levy) is amended by adding at the end the following new subsection:

"(g) FRIVOLOUS REQUESTS FOR HEARING, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of a request for a hearing under this section or section 6320 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.".

(2) PRECLUSION FROM RAISING FRIVOLOUS ISSUES AT HEARING.—Section 6330(c)(4) is amended—

(A) by striking "(A)" and inserting "(A)(i)";

(B) by striking "(B)" and inserting "(ii)";

(C) by striking the period at the end of the first sentence and inserting "; or"; and

(D) by inserting after subparagraph (A)(ii) (as so redesignated) the following:

"(B) the issue meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A).".

(3) STATEMENT OF GROUNDS.—Section 6330(b)(1) is amended by striking "under subsection (a)(3)(B)" and inserting "in writing under subsection (a)(3)(B) and states the grounds for the requested hearing".

(c) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS UPON FILING OF NOTICE OF LIEN.—Section 6320 is amended—

(1) in subsection (b)(1), by striking "under subsection (a)(3)(B)" and inserting "in writing under subsection (a)(3)(B) and states the grounds for the requested hearing", and

(2) in subsection (c), by striking "and (e)" and inserting "(e), and (g)".

(d) TREATMENT OF FRIVOLOUS APPLICATIONS FOR OFFERS-IN-COMPROMISE AND INSTALLMENT AGREEMENTS.—Section 7122 is amended by adding at the end the following new subsection:

"(e) FRIVOLOUS SUBMISSIONS, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of an application for an offer-in-compromise or installment agreement submitted under this section or section 6159 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.".

(e) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6702 and inserting the following new item:

"Sec. 6702. Frivolous tax submissions.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to submissions made and issues raised after the date on which the Secretary first prescribes a list under section 6702(c) of the Internal Revenue Code of 1986, as amended by subsection (a).

SEC. 108. CLARIFICATION OF APPLICATION OF FEDERAL TAX DEPOSIT PENALTY.

Nothing in section 6656 of the Internal Revenue Code of 1986 shall be construed to permit the percentage specified in subsection (b)(1)(A)(iii) thereof to apply other than in a case where the failure is for more than 15 days.

TITLE II—FAIRNESS OF COLLECTION PROCEDURES

SEC. 201. PARTIAL PAYMENT OF TAX LIABILITY IN INSTALLMENT AGREEMENTS.

(a) IN GENERAL.—

(1) Section 6159(a) (relating to authorization of agreements) is amended—

(A) by striking "satisfy liability for payment of" and inserting "make payment on", and

(B) by inserting "full or partial" after "facilitate".

(2) Section 6159(c) (relating to Secretary required to enter into installment agreements in certain cases) is amended in the matter preceding paragraph (1) by inserting "full" before "payment".

(b) REQUIREMENT TO REVIEW PARTIAL PAYMENT AGREEMENTS EVERY TWO YEARS.—Section 6159 is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and inserting after subsection (c) the following new subsection:

"(d) SECRETARY REQUIRED TO REVIEW INSTALLMENT AGREEMENTS FOR PARTIAL COLLECTION EVERY TWO YEARS.—In the case of an agreement entered into by the Secretary under subsection (a) for partial collection of a tax liability, the Secretary shall review the agreement at least once every 2 years.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements entered into on or after the date of the enactment of this Act.

SEC. 202. EXTENSION OF TIME FOR RETURN OF PROPERTY.

(a) EXTENSION OF TIME FOR RETURN OF PROPERTY SUBJECT TO LEVY.—Subsection (b) of section 6343 (relating to return of property) is amended by striking "9 months" and inserting "2 years".

(b) PERIOD OF LIMITATION ON SUITS.—Subsection (c) of section 6532 (relating to suits by persons other than taxpayers) is amended—

(1) in paragraph (1) by striking "9 months" and inserting "2 years", and

(2) in paragraph (2) by striking "9-month" and inserting "2-year".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) levies made after the date of the enactment of this Act, and

(2) levies made on or before such date if the 9-month period has not expired under section 6343(b) of the Internal Revenue Code of 1986 (without regard to this section) as of such date.

SEC. 203. INDIVIDUALS HELD HARMLESS ON WRONGFUL LEVY, ETC. ON INDIVIDUAL RETIREMENT PLAN.

(a) IN GENERAL.—Section 6343 (relating to authority to release levy and return property) is amended by adding at the end the following new subsection:

"(f) INDIVIDUALS HELD HARMLESS ON WRONGFUL LEVY, ETC. ON INDIVIDUAL RETIREMENT PLAN.—

"(1) IN GENERAL.—If the Secretary determines that an individual retirement plan has been levied upon in a case to which subsection (b) or (d)(2)(A) applies, an amount equal to the sum of—

"(A) the amount of money returned by the Secretary on account of such levy, and

"(B) interest paid under subsection (c) on such amount of money,

may be deposited into an individual retirement plan (other than an endowment contract) to which a rollover from the plan levied upon is permitted.

"(2) TREATMENT AS ROLLOVER.—The distribution on account of the levy and any deposit under paragraph (1) with respect to such distribution shall be treated for purposes of this title as if such distribution and deposit were part of a rollover described in section 408(d)(3)(A)(i); except that—

"(A) interest paid under subsection (c) shall be treated as part of such distribution and as not includible in gross income,

"(B) the 60-day requirement in such section shall be treated as met if the deposit is made not later than the 60th day after the day on which the individual receives an amount under paragraph (1) from the Secretary, and

"(C) such deposit shall not be taken into account under section 408(d)(3)(B).

"(3) REFUND, ETC., OF INCOME TAX ON LEVY.—If any amount is includible in gross income for a taxable year by reason of a levy referred to in paragraph (1) and any portion of such amount is treated as a rollover under paragraph (2), any tax imposed by chapter 1 on such portion shall not be assessed, and if assessed shall be abated, and if collected shall be credited or refunded as an overpayment made on the due date for filing the return of tax for such taxable year.

"(4) INTEREST.—Notwithstanding subsection (d), interest shall be allowed under subsection (c) in a case in which the Secretary makes a determination described in subsection (d)(2)(A) with respect to a levy upon an individual retirement plan.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid under subsections (b), (c), and (d)(2)(A) of section 6343 of the Internal Revenue Code of 1986 after December 31, 2002.

SEC. 204. SEVEN-DAY THRESHOLD ON TOLLING OF STATUTE OF LIMITATIONS DURING TAX REVIEW.

(a) IN GENERAL.—Section 7811(d)(1) (relating to suspension of running of period of limitation) is amended by inserting after "application," the following: "but only if the date of such decision is at least 7 days after the date of the taxpayer's application".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to applications filed after the date of the enactment of this Act.

SEC. 205. STUDY OF LIENS AND LEVIES.

The Secretary of the Treasury, or the Secretary's delegate, shall conduct a study of the practices of the Internal Revenue Service concerning liens and levies. The study shall examine—

(1) the declining use of liens and levies by the Internal Revenue Service, and

(2) the practicality of recording liens and levying against property in cases in which the cost of such actions exceeds the amount to be realized from such property.

Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit such study to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

TITLE III—EFFICIENCY OF TAX ADMINISTRATION

SEC. 301. REVISIONS RELATING TO TERMINATION OF EMPLOYMENT OF INTERNAL REVENUE SERVICE EMPLOYEES FOR MISCONDUCT.

(a) IN GENERAL.—Subchapter A of chapter 80 (relating to application of internal revenue laws) is amended by inserting after section 7804 the following new section:

"SEC. 7804A. DISCIPLINARY ACTIONS FOR MISCONDUCT.

"(a) DISCIPLINARY ACTIONS.—

"(1) IN GENERAL.—Subject to subsection (c), the Commissioner shall take an action in accordance with the guidelines established under paragraph (2) against any employee of the Internal Revenue Service if there is a final administrative or judicial determination that such employee committed any act or omission described under subsection (b) in the performance of the employee's official duties or where a nexus to the employee's position exists.

"(2) GUIDELINES.—The Commissioner shall issue guidelines for determining the appropriate level of discipline, up to and including termination of employment, for committing any act or omission described under subsection (b).

"(b) ACTS OR OMISSIONS.—The acts or omissions described under this subsection are—

"(1) willful failure to obtain the required approval signatures on documents authorizing the seizure of a taxpayer's home, personal belongings, or business assets;

"(2) willfully providing a false statement under oath with respect to a material matter involving a taxpayer or taxpayer representative;

"(3) with respect to a taxpayer or taxpayer representative, the willful violation of—

"(A) any right under the Constitution of the United States;

"(B) any civil right established under—

"(i) title VI or VII of the Civil Rights Act of 1964;

"(ii) title IX of the Education Amendments of 1972;

"(iii) the Age Discrimination in Employment Act of 1967;

"(iv) the Age Discrimination Act of 1975;

"(v) section 501 or 504 of the Rehabilitation Act of 1973; or

"(vi) title I of the Americans with Disabilities Act of 1990; or

"(C) the Internal Revenue Service policy on unauthorized inspection of returns or return information;

"(4) willfully falsifying or destroying documents to conceal mistakes made by any employee with respect to a matter involving a taxpayer or taxpayer representative;

"(5) assault or battery on a taxpayer or taxpayer representative, but only if there is a criminal conviction, or a final adverse judgment by a court in a civil case, with respect to the assault or battery;

"(6) willful violations of this title, Department of the Treasury regulations, or policies of the Internal Revenue Service (including the Internal Revenue Manual) for the purpose of retaliating against, or harassing, a taxpayer or taxpayer representative;

"(7) willful misuse of the provisions of section 6103 for the purpose of concealing information from a congressional inquiry;

"(8) willful failure to file any return of tax required under this title on or before the date prescribed therefor (including any extensions) when a tax is due and owing, unless such failure is due to reasonable cause and not due to willful neglect;

"(9) willful understatement of Federal tax liability, unless such understatement is due to reasonable cause and not due to willful neglect; and

"(10) threatening to audit a taxpayer, or to take other action under this title, for the purpose of extracting personal gain or benefit.

"(c) DETERMINATIONS OF COMMISSIONER.—

"(1) IN GENERAL.—The Commissioner may take a personnel action other than a disciplinary action provided for in the guidelines under subsection (a)(2) for an act or omission described under subsection (b).

"(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may not be delegated to any other officer. The Commissioner, in his sole discretion, may establish a procedure to determine if an individual should be referred to the Commissioner for a determination by the Commissioner under paragraph (1).

"(3) NO APPEAL.—Notwithstanding any other provision of law, any determination of the Commissioner under this subsection may not be reviewed in any administrative or judicial proceeding. A finding that an act or omission described under subsection (b) occurred may be reviewed.

"(d) DEFINITION.—For the purposes of the provisions described in clauses (i), (ii), and (iv) of subsection (b)(3)(B), references to a program or activity regarding Federal financial assistance or an education program or activity receiving Federal financial assistance shall include any program or activity conducted by the Internal Revenue Service for a taxpayer.

"(e) ANNUAL REPORT.—The Commissioner shall submit to Congress annually a report on disciplinary actions under this section.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 80 is amended by inserting after the item relating to section 7804 the following new item:

"Sec. 7804A. Disciplinary actions for misconduct.".

(c) REPEAL OF SUPERSEDED SECTION.—Section 1203 of the Internal Revenue Service Restructuring and Reform Act of 1998 (Public Law 105–206; 112 Stat. 720) is repealed.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 302. CONFIRMATION OF AUTHORITY OF TAX COURT TO APPLY DOCTRINE OF EQUITABLE RECOUPMENT.

(a) CONFIRMATION OF AUTHORITY OF TAX COURT TO APPLY DOCTRINE OF EQUITABLE RECOUPMENT.—Subsection (b) of section 6214 (relating to jurisdiction over other years and quarters) is amended by adding at the end the following new sentence: "Notwithstanding the preceding sentence, the Tax Court may apply the doctrine of equitable recoupment to the same extent that it is available in civil tax cases before the district courts of the United States and the United States Court of Federal Claims.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any action or proceeding in the Tax Court with respect to which a decision has not become final (as determined under section 7481 of the Internal Revenue Code of 1986) as of the date of the enactment of this Act.

SEC. 303. JURISDICTION OF TAX COURT OVER COLLECTION DUE PROCESS CASES.

(a) IN GENERAL.—Section 6330(d)(1) (relating to judicial review of determination) is amended to read as follows:

"(1) JUDICIAL REVIEW OF DETERMINATION.—The person may, within 30 days of a determination under this section, appeal such determination to the Tax Court (and the Tax Court shall have jurisdiction with respect to such matter).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to judicial appeals filed after the date of the enactment of this Act.

SEC. 304. OFFICE OF CHIEF COUNSEL REVIEW OF OFFERS IN COMPROMISE.

(a) IN GENERAL.—Section 7122(b) (relating to record) is amended by striking "Whenever a compromise" and all that follows through "his delegate" and inserting "If the Secretary determines that an opinion of the General Counsel for the Department of the Treasury, or the Counsel's delegate, is required with respect to a compromise, there shall be placed on file in the office of the Secretary such opinion".

(b) CONFORMING AMENDMENTS.—Section 7122(b) is amended by striking the second and third sentences.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to offers-in-compromise submitted or pending on or after the date of the enactment of this Act.

SEC. 305. 15-DAY DELAY IN DUE DATE FOR ELECTRONICALLY FILED INDIVIDUAL INCOME TAX RETURNS.

(a) IN GENERAL.—Section 6072 (relating to time for filing income tax returns) is amended by adding at the end the following new subsection:

"(f) ELECTRONICALLY FILED RETURNS OF INDIVIDUALS.—

"(1) IN GENERAL.—Returns of an individual under section 6012 or 6013 (other than an individual to whom subsection (c) applies) which are filed electronically—

"(A) in the case of returns filed on the basis of a calendar year, shall be filed on or before the 30th day of April following the close of the calendar year, and

"(B) in the case of returns filed on the basis of a fiscal year, shall be filed on or before the last day of the 4th month following the close of the fiscal year.

"(2) ELECTRONIC FILING.—Paragraph (1) shall not apply to any return unless—

"(A) such return is accepted by the Secretary, and

"(B) the balance due (if any) shown on such return is paid electronically in a manner prescribed by the Secretary.

"(3) SPECIAL RULES.—

"(A) ESTIMATED TAX.—If—

"(i) paragraph (1) applies to an individual for any taxable year, and

"(ii) there is an overpayment of tax shown on the return for such year which the individual allows against the individual's obligation under section 6641,

then, with respect to the amount so allowed, any reference in section 6641 to the April 15 following such taxable year shall be treated as a reference to April 30.

"(B) REFERENCES TO DUE DATE.—Paragraph (1) shall apply solely for purposes of determining the due date for the individual's obligation to file and pay tax and, except as otherwise provided by the Secretary, shall be treated as an extension of the due date for any other purpose under this title.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2001.

TITLE IV—CONFIDENTIALITY AND DISCLOSURE

SEC. 401. COLLECTION ACTIVITIES WITH RESPECT TO JOINT RETURN DISCLOSABLE TO EITHER SPOUSE BASED ON ORAL REQUEST.

(a) IN GENERAL.—Paragraph (8) of section 6103(e) (relating to disclosure of collection activities with respect to joint return) is amended by striking "in writing" the first place it appears.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to requests made after the date of the enactment of this Act.

SEC. 402. TAXPAYER REPRESENTATIVES NOT SUBJECT TO EXAMINATION ON SOLE BASIS OF REPRESENTATION OF TAXPAYERS.

(a) IN GENERAL.—Subsection (h) of section 6103 (relating to disclosure to certain Federal officers and employees for purposes of tax administration, etc.) is amended by adding at the end the following new paragraph:

"(7) TAXPAYER REPRESENTATIVES.—Notwithstanding paragraph (1), the return of the representative of a taxpayer whose return is being examined by an officer or employee of the Department of the Treasury shall not be open to inspection by such officer or employee on the sole basis of the representative's relationship to the taxpayer unless a supervisor of such officer or employee has approved the inspection of the return of such representative on a basis other than by reason of such relationship.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 403. DISCLOSURE IN JUDICIAL OR ADMINISTRATIVE TAX PROCEEDINGS OF RETURN AND RETURN INFORMATION OF PERSONS WHO ARE NOT PARTY TO SUCH PROCEEDINGS.

(a) IN GENERAL.—Paragraph (4) of section 6103(h) (relating to disclosure to certain Federal officers and employees for purposes of tax administration, etc.) is amended by adding at the end the following new subparagraph:

"(B) DISCLOSURE IN JUDICIAL OR ADMINISTRATIVE TAX PROCEEDINGS OF RETURN AND RETURN INFORMATION OF PERSONS NOT PARTY TO SUCH PROCEEDINGS.—

"(i) NOTICE.—Return or return information of any person who is not a party to a judicial or administrative proceeding described in this paragraph shall not be disclosed under clause (ii) or (iii) of subparagraph (A) until after the Secretary makes a reasonable effort to give notice to such person and an opportunity for such person to request the deletion of matter from such return or return information, including any of the items referred to in paragraphs (1) through (7) of section 6110(c). Such notice shall include a statement of the issue or issues the resolution of which is the reason such return or return information is sought. In the case of S corporations, partnerships, estates, and trusts, such notice shall be made at the entity level.

"(ii) DISCLOSURE LIMITED TO PERTINENT PORTION.—The only portion of a return or return information described in clause (i) which may be disclosed under subparagraph (A) is that portion of such return or return information that directly relates to the resolution of an issue in such proceeding.

"(iii) EXCEPTIONS.—Clause (i) shall not apply—

"(I) to any civil action under section 7407, 7408, or 7409,

"(II) to any ex parte proceeding for obtaining a search warrant, order for entry on premises or safe deposit boxes, or similar ex parte proceeding,

"(III) to disclosure of third party return information by indictment or criminal information, or

"(IV) if the Attorney General or the Attorney General's delegate determines that the application of such clause would seriously impair a criminal tax investigation or proceeding.".

(b) CONFORMING AMENDMENTS.—Paragraph (4) of section 6103(h) is amended by—

(1) by striking "PROCEEDINGS.—A return" and inserting "PROCEEDINGS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a return";

(2) by redesignating subparagraphs (A), (B), (C), and (D) as clauses (i), (ii), (iii), and (iv), respectively; and

(3) in the matter following clause (iv) (as so redesignated), by striking "subparagraph (A), (B), or (C)" and inserting "clause (i), (ii), or (iii)" and by moving such matter 2 ems to the right.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to proceedings commenced after the date of the enactment of this Act.

SEC. 404. PROHIBITION OF DISCLOSURE OF TAXPAYER IDENTIFICATION INFORMATION WITH RESPECT TO DISCLOSURE OF ACCEPTED OFFERS-IN-COMPROMISE.

(a) IN GENERAL.—Paragraph (1) of section 6103(k) (relating to disclosure of certain returns and return information for tax administrative purposes) is amended by inserting "(other than the taxpayer's address and TIN)" after "Return information".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to disclosures made after the date of the enactment of this Act.

SEC. 405. COMPLIANCE BY CONTRACTORS WITH CONFIDENTIALITY SAFEGUARDS.

(a) IN GENERAL.—Section 6103(p) (relating to State law requirements) is amended by adding at the end the following new paragraph:

"(9) DISCLOSURE TO CONTRACTORS.—Notwithstanding any other provision of this section, no return or return information shall be disclosed by any officer or employee of any Federal agency or State to any contractor of such agency or State unless such agency or State—

"(A) has requirements in effect which require each contractor of such agency or State which would have access to returns or return information to provide safeguards (within the meaning of paragraph (4)) to protect the confidentiality of such returns or return information,

"(B) agrees to conduct an annual, on-site review (mid-point review in the case of contracts of less than 1 year in duration) of each contractor to determine compliance with such requirements,

"(C) submits the findings of the most recent review conducted under subparagraph (B) to the Secretary as part of the report required by paragraph (4)(E), and

"(D) certifies to the Secretary for the most recent annual period that all contractors are in compliance with all such requirements.

The certification required by subparagraph (D) shall include the name and address of each contractor, a description of the contract of the contractor with the Federal agency or State, and the duration of such contract.".

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 6103(p)(8) is amended by inserting "or paragraph (9)" after "subparagraph (A)".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to disclosures made after December 31, 2002.

(2) CERTIFICATIONS.—The first certification under section 6103(p)(9)(D) of the Internal Revenue Code of 1986, as added by subsection (a), shall be made with respect to calendar year 2003.

SEC. 406. HIGHER STANDARDS FOR REQUESTS FOR AND CONSENTS TO DISCLOSURE.

(a) IN GENERAL.—Subsection (c) of section 6103 (relating to disclosure of returns and return information to designee of taxpayer) is amended by adding at the end the following new paragraphs:

"(2) REQUIREMENTS FOR VALID REQUESTS AND CONSENTS.—A request for or consent to disclosure under paragraph (1) shall only be valid for purposes of this section or sections 7213, 7213A, or 7431 if—

"(A) at the time of execution, such request or consent designates a recipient of such disclosure and is dated, and

"(B) at the time such request or consent is submitted to the Secretary, the submitter of such request or consent certifies, under penalty of perjury, that such request or consent complied with subparagraph (A).

"(3) RESTRICTIONS ON PERSONS OBTAINING INFORMATION.—Any person shall, as a condition for receiving return or return information under paragraph (1)—

"(A) ensure that such return and return information is kept confidential,

"(B) use such return and return information only for the purpose for which it was requested, and

"(C) not disclose such return and return information except to accomplish the purpose for which it was requested, unless a separate consent from the taxpayer is obtained.

"(4) REQUIREMENTS FOR FORM PRESCRIBED BY SECRETARY.—For purposes of this subsection, the Secretary shall prescribe a form for requests and consents which shall—

"(A) contain a warning, prominently displayed, informing the taxpayer that the form should not be signed unless it is completed,

"(B) state that if the taxpayer believes there is an attempt to coerce him to sign an incomplete or blank form, the taxpayer should report the matter to the Treasury Inspector General for Tax Administration, and

"(C) contain the address and telephone number of the Treasury Inspector General for Tax Administration.".

(b) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Treasury Inspector General for Tax Administration shall submit a report to the Congress on compliance with the designation and certification requirements applicable to requests for or consent to disclosure of returns and return information under section 6103(c) of the Internal Revenue Code of 1986, as amended by subsection (a). Such report shall—

(1) evaluate (on the basis of random sampling) whether—

(A) the amendment made by subsection (a) is achieving the purposes of this section;

(B) requesters and submitters for such disclosure are continuing to evade the purposes of this section and, if so, how; and

(C) the sanctions for violations of such requirements are adequate; and

(2) include such recommendations that the Treasury Inspector General for Tax Administration considers necessary or appropriate to better achieve the purposes of this section.

(c) CONFORMING AMENDMENT.—Section 6103(c) is amended by striking "TAXPAYER.—The Secretary" and inserting "TAXPAYER.—

"(1) IN GENERAL.—The Secretary".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to requests and consents made after 3 months after the date of the enactment of this Act.

SEC. 407. NOTICE TO TAXPAYER CONCERNING ADMINISTRATIVE DETERMINATION OF BROWSING; ANNUAL REPORT.

(a) NOTICE TO TAXPAYER.—Subsection (e) of section 7431 (relating to notification of unlawful inspection and disclosure) is amended by adding at the end the following: "The Secretary shall also notify such taxpayer if the Treasury Inspector General for Tax Administration determines that such taxpayer's return or return information was inspected or disclosed in violation of any of the provisions specified in paragraph (1), (2), or (3).".

(b) REPORTS.—Subsection (p) of section 6103 (relating to procedure and recordkeeping), as amended by section 405, is further amended by adding at the end the following new paragraph:

"(10) REPORT ON UNAUTHORIZED DISCLOSURE AND INSPECTION.—As part of the report required by paragraph (3)(C) for each calendar year, the Secretary shall furnish information regarding the unauthorized disclosure and inspection of returns and return information, including the number, status, and results of—

"(A) administrative investigations,

"(B) civil lawsuits brought under section 7431 (including the amounts for which such lawsuits were settled and the amounts of damages awarded), and

"(C) criminal prosecutions.".

(c) EFFECTIVE DATE.—

(1) NOTICE.—The amendment made by subsection (a) shall apply to determinations made after the date of the enactment of this Act.

(2) REPORTS.—The amendment made by subsection (b) shall apply to calendar years ending after the date of the enactment of this Act.

SEC. 408. EXPANDED DISCLOSURE IN EMERGENCY CIRCUMSTANCES.

(a) IN GENERAL.—Section 6103(i)(3)(B) (relating to danger of death or physical injury) is amended by striking "or State" and inserting ", State, or local".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 409. DISCLOSURE OF TAXPAYER IDENTITY FOR TAX REFUND PURPOSES.

(a) IN GENERAL.—Paragraph (1) of section 6103(m) (relating to disclosure of taxpayer identity information) is amended by striking "and other media" and by inserting ", other media, and through any other means of mass communication,".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 410. DISCLOSURE TO STATE OFFICIALS OF PROPOSED ACTIONS RELATED TO SECTION 501(c)(3) ORGANIZATIONS.

(a) IN GENERAL.—Subsection (c) of section 6104 is amended by striking paragraph (2) and inserting the following new paragraphs:

"(2) DISCLOSURE OF PROPOSED ACTIONS.—

"(A) SPECIFIC NOTIFICATIONS.—In the case of an organization to which paragraph (1) applies, the Secretary may disclose to the appropriate State officer—

"(i) a notice of proposed refusal to recognize such organization as an organization described in section 501(c)(3) or a notice of proposed revocation of such organization's recognition as an organization exempt from taxation,

"(ii) the issuance of a letter of proposed deficiency of tax imposed under section 507 or chapter 41 or 42, and

"(iii) the names and taxpayer identification numbers of organizations that have applied for recognition as organizations described in section 501(c)(3).

"(B) ADDITIONAL DISCLOSURES.—Returns and return information of organizations with respect to which information is disclosed under subparagraph (A) may be made available for inspection by or disclosed to an appropriate State officer.

"(C) PROCEDURES FOR DISCLOSURE.—Information may be inspected or disclosed under subparagraph (A) or (B) only—

"(i) upon written request by an appropriate State officer, and

"(ii) for the purpose of, and only to the extent necessary in, the administration of State laws regulating such organizations.

Such information may only be inspected by or disclosed to representatives of the appropriate State officer designated as the individuals who are to inspect or to receive the returns or return information under this paragraph on behalf of such officer.

"(D) DISCLOSURES OTHER THAN BY REQUEST.—The Secretary may make available for inspection or disclose returns and return information of an organization to which paragraph (1) applies to an appropriate State officer of any State if the Secretary determines that such inspection or disclosure may facilitate the resolution of State and Federal issues relating to such organization.

"(3) USE IN JUDICIAL AND ADMINISTRATIVE PROCEEDINGS.—Returns and return information disclosed pursuant to this subsection may be disclosed in civil administrative and judicial proceedings pertaining to the enforcement of State laws regulating such organizations in a manner prescribed by the Secretary similar to that for tax administration proceedings under section 6103(h)(4).

"(4) NO DISCLOSURE IF IMPAIRMENT.—Returns and return information shall not be disclosed under this subsection, or in any proceeding described in paragraph (3), to the extent that the Secretary determines that such disclosure would seriously impair Federal tax administration.

"(5) DEFINITIONS.—For purposes of this subsection—

"(A) RETURN AND RETURN INFORMATION.—The terms 'return' and 'return information' have the respective meanings given to such terms by section 6103(b).

"(B) APPROPRIATE STATE OFFICER.—The term 'appropriate State officer' means—

"(i) the State attorney general, or

"(ii) the head of any State agency, body, or commission which is charged under the laws of such State with responsibility for overseeing organizations of the type described in section 501(c)(3).".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 6103 is amended—

(A) by inserting "or section 6104(c)" after "this section" in paragraph (2), and

(B) by striking "or subsection (n)" in paragraph (3) and inserting "subsection (n), or section 6104(c)".

(2) Subparagraph (A) of section 6103(p)(3) is amended by inserting "and section 6104(c)" after "section" in the first sentence.

(3) Paragraph (4) of section 6103(p) is amended—

(A) in the matter preceding subparagraph (A), by striking "(16) or any other person described in subsection (l)(16)" and inserting "(16), any other person described in subsection (l)(16), or any appropriate State officer (as defined in section 6104(c))", and

(B) in subparagraph (F), by striking "or any other person described in subsection (l)(16)" and inserting "any other person described in subsection (l)(16), or any appropriate State officer (as defined in section 6104(c))".

(4) Paragraph (2) of section 7213(a) is amended by inserting "or under section 6104(c)" after "6103".

(5) Paragraph (2) of section 7213A(a) is amended by inserting "or 6104(c)" after "6103".

(6) Paragraph (2) of section 7431(a) is amended by inserting "(including any disclosure in violation of section 6104(c))" after "6103".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act but shall not apply to requests made before such date.

TITLE V—MISCELLANEOUS

SEC. 501. CLARIFICATION OF DEFINITION OF CHURCH TAX INQUIRY.

Subsection (i) of section 7611 (relating to section not to apply to criminal investigations, etc.) is amended by striking "or" at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting ", or", and by inserting after paragraph (5) the following:

"(6) information provided by the Secretary related to the standards for exemption from tax under this title and the requirements under this title relating to unrelated business taxable income.".

SEC. 502. EXPANSION OF DECLARATORY JUDGMENT REMEDY TO TAX-EXEMPT ORGANIZATIONS.

(a) IN GENERAL.—Paragraph (1) of section 7428(a) (relating to creation of remedy) is amended—

(1) in subparagraph (B) by inserting after "509(a))" the following: "or as a private operating foundation (as defined in section 4942(j)(3))"; and

(2) by amending subparagraph (C) to read as follows:

"(C) with respect to the initial qualification or continuing qualification of an organization as an organization described in section 501(c) (other than paragraph (3)) which is exempt from tax under section 501(a), or".

(b) COURT JURISDICTION.—Subsection (a) of section 7428 is amended in the material following paragraph (2) by striking "United States Tax Court, the United States Claims Court, or the district court of the United States for the District of Columbia" and inserting the following: "United States Tax Court (in the case of any such determination or failure) or the United States Claims Court or the district court of the United States for the District of Columbia (in the case of a determination or failure with respect to an issue referred to in subparagraph (A) or (B) of paragraph (1)),".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to pleadings filed with respect to determinations (or requests for determinations) made after the date of the enactment of this Act.

SEC. 503. EMPLOYEE MISCONDUCT REPORT TO INCLUDE SUMMARY OF COMPLAINTS BY CATEGORY.

(a) IN GENERAL.—Clause (ii) of section 7803(d)(2)(A) is amended by inserting before the semicolon at the end the following: ", including a summary (by category) of the 10 most common complaints made and the number of such common complaints".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to reporting periods ending after the date of the enactment of this Act.

SEC. 504. ANNUAL REPORT ON AWARDS OF COSTS AND CERTAIN FEES IN ADMINISTRATIVE AND COURT PROCEEDINGS.

Not later than 3 months after the close of each Federal fiscal year after fiscal year 2001, the Treasury Inspector General for Tax Administration shall submit a report to Congress which specifies for such year—

(1) the number of payments made by the United States pursuant to section 7430 of the Internal Revenue Code of 1986 (relating to awarding of costs and certain fees);

(2) the amount of each such payment;

(3) an analysis of any administrative issue giving rise to such payments; and

(4) changes (if any) which will be implemented as a result of such analysis and other changes (if any) recommended by the Treasury Inspector General for Tax Administration as a result of such analysis.

SEC. 505. ANNUAL REPORT ON ABATEMENT OF PENALTIES.

Not later than 6 months after the close of each Federal fiscal year after fiscal year 2001, the Treasury Inspector General for Tax Administration shall submit a report to Congress on abatements of penalties under the Internal Revenue Code of 1986 during such year, including information on the reasons and criteria for such abatements.

SEC. 506. BETTER MEANS OF COMMUNICATING WITH TAXPAYERS.

Not later than 18 months after the date of the enactment of this Act, the Treasury Inspector General for Tax Administration shall submit a report to Congress evaluating whether technological advances, such as e-mail and facsimile transmission, permit the use of alternative means for the Internal Revenue Service to communicate with taxpayers.

SEC. 507. EXPLANATION OF STATUTE OF LIMITATIONS AND CONSEQUENCES OF FAILURE TO FILE.

The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable but not later than 180 days after the date of the enactment of this Act, revise the statement required by section 6227 of the Omnibus Taxpayer Bill of Rights (Internal Revenue Service Publication No. 1), and any instructions booklet accompanying a general income tax return form for taxable years beginning after 2001 (including forms 1040, 1040A, 1040EZ, and any similar or successor forms relating thereto), to provide for an explanation of—

(1) the limitations imposed by section 6511 of the Internal Revenue Code of 1986 on credits and refunds; and

(2) the consequences under such section 6511 of the failure to file a return of tax.

SEC. 508. AMENDMENT TO TREASURY AUCTION REFORMS.

(a) IN GENERAL.—Clause (i) of section 202(c)(4)(B) of the Government Securities Act Amendments of 1993 (31 U.S.C. 3121 note) is amended by inserting before the semicolon "(or, if earlier, at the time the Secretary releases the minutes of the meeting in accordance with paragraph (2))".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to meetings held after the date of the enactment of this Act.

SEC. 509. ENROLLED AGENTS.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

"SEC. 7527. ENROLLED AGENTS.

"(a) IN GENERAL.—The Secretary may prescribe such regulations as may be necessary to regulate the conduct of enrolled agents in regards to their practice before the Internal Revenue Service.

"(b) USE OF CREDENTIALS.—Any enrolled agents properly licensed to practice as required under rules promulgated under section (a) herein shall be allowed to use the credentials or designation as 'enrolled agent', 'EA', or 'E.A.'.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end the following new item:

"Sec. 7527. Enrolled agents.".

(c) PRIOR REGULATIONS.—Nothing in the amendments made by this section shall be construed to have any effect on part 10 of title 31, Code of Federal Regulations, or any other Federal rule or regulation issued before the date of the enactment of this Act.

SEC. 510. FINANCIAL MANAGEMENT SERVICE FEES.

Notwithstanding any other provision of law, the Financial Management Service may charge the Internal Revenue Service, and the Internal Revenue Service may pay the Financial Management Service, a fee sufficient to cover the full cost of implementing a continuous levy program under subsection (h) of section 6331 of the Internal Revenue Code of 1986. Any such fee shall be based on actual levies made and shall be collected by the Financial Management Service by the retention of a portion of amounts collected by levy pursuant to that subsection. Amounts received by the Financial Management Service as fees under that subsection shall be deposited into the account of the Department of the Treasury under section 3711(g)(7) of title 31, United States Code, and shall be collected and accounted for in accordance with the provisions of that section. The amount credited against the taxpayer's liability on account of the continuous levy shall be the amount levied, without reduction for the amount paid to the Financial Management Service as a fee.

SEC. 511. CAPITAL GAIN TREATMENT UNDER SECTION 631(b) TO APPLY TO OUTRIGHT SALES BY LAND OWNER.

(a) IN GENERAL.—The first sentence of section 631(b) of the Internal Revenue Code of 1986 (relating to disposal of timber with a retained economic interest) is amended by striking "retains an economic interest in such timber" and inserting "either retains an economic interest in such timber or makes an outright sale of such timber".

(b) CONFORMING AMENDMENT.—The third sentence of section 631(b) of such Code is amended by striking "The date of disposal" and inserting "In the case of disposal of timber with a retained economic interest, the date of disposal".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after the date of the enactment of this Act.

TITLE VI—LOW-INCOME TAXPAYER CLINICS

SEC. 601. LOW-INCOME TAXPAYER CLINICS.

(a) LIMITATION ON AMOUNT OF GRANTS.—Paragraph (1) of section 7526(c) (relating to special rules and limitations) is amended by striking "$6,000,000 per year" and inserting "$9,000,000 for 2002, $12,000,000 for 2003, and $15,000,000 for each year thereafter".

(b) LIMITATION ON USE OF CLINICS FOR TAX RETURN PREPARATION.—Subparagraph (A) of section 7526(b)(1) is amended by adding at the end the following flush language:

> "The term does not include a clinic that provides routine tax return preparation. The preceding sentence shall not apply to return preparation in connection with a controversy with the Internal Revenue Service.".

(c) PROMOTION OF CLINICS.—Section 7526(c) is amended by adding at the end the following new paragraph:

> "(7) PROMOTION OF CLINICS.—The Secretary is authorized to promote the benefits of and encourage the use of low-income taxpayer clinics through the use of mass communications, referrals, and other means.".

TITLE VII—REVISIONS TO SECTION 527 ORGANIZATION DISCLOSURE PROVISIONS

SEC. 701. MODIFICATIONS OF REPORTING REQUIREMENTS FOR CERTAIN STATE AND LOCAL POLITICAL ORGANIZATIONS.

(a) NOTIFICATION.—

(1) Paragraph (5) of section 527(i) (relating to organizations must notify Secretary that they are section 527 organizations) is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by adding at the end the following:

> "(C) which is—
>
> "(i) a political committee of a State or local candidate, or
>
> "(ii) a local committee of an entity which is a political party under State law.".

(2) Subparagraph (B) of section 527(j)(5) (relating to coordination with other requirements) is amended to read as follows:

> "(B) to any organization which is—
>
> "(i) a political committee of a State or local candidate, or

"(ii) a State or local committee of an entity which is a political party under State law,".

(b) EXEMPTION FOR CERTAIN STATE AND LOCAL POLITICAL COMMITTEES FROM REPORTING REQUIREMENTS.—

(1) IN GENERAL.—Paragraph (5) of section 527(j) (relating to required disclosures of expenditures and contributions) is amended by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F), respectively, and by inserting after subparagraph (B) the following new subparagraph:

"(C) to any organization which is an exempt State or local political organization,".

(2) EXEMPT STATE OR LOCAL POLITICAL ORGANIZATION.—Subsection (e) of section 527 (relating to other definitions) is amended by adding at the end the following new paragraph:

"(5) EXEMPT STATE OR LOCAL POLITICAL ORGANIZATION.—

"(A) IN GENERAL.—The term 'exempt State or local political organization' means a political organization—

"(i) which does not engage in any exempt function other than to influence or to attempt to influence the selection, nomination, election, or appointment of any individual to any State or local public office or office in a State or local political organization,

"(ii) which is subject to State or local requirements to submit reports containing information—

"(I) regarding individual expenditures from and contributions to such organization, and

"(II) regarding the person who makes such contributions or receives such expenditures,

which is substantially similar to the information which would otherwise be required to be reported under this section, and

"(iii) with respect to which the reports referred to in clause (ii) are made public by the agency with which such reports are filed and are publicly available for inspection in a manner similar to that required by section 6104(d)(1).

"(B) PARTICIPATION OF FEDERAL CANDIDATE OR OFFICE HOLDER.—The term 'exempt State or local political organization' shall not include any organization otherwise described in subparagraph (A) if a candidate for nomination or election to Federal elective office or an individual who holds such office—

"(i) controls or materially participates in the direction of the organization, or

"(ii) directs, in whole or in part, expenditures or fundraising activities of the organization.".

(c) ANNUAL RETURN REQUIREMENTS.—

(1) INCOME TAX RETURNS REQUIRED ONLY WHERE POLITICAL ORGANIZATION TAXABLE INCOME.—Paragraph (6) of section 6012(a) (relating to general rule of persons required to make returns of income) is amended by striking "or which has gross receipts of $25,000 or more for the taxable year (other than an organization to which section 527 applies solely by reason of subsection (f)(1) of such section)".

(2) INFORMATION RETURNS.—Subsection (g) of section 6033 (relating to returns required by political organizations) is amended to read as follows:

"(g) RETURNS REQUIRED BY POLITICAL ORGANIZATIONS.—

"(1) IN GENERAL.—Every political organization (within the meaning of section 527(e)(1)), and every fund treated under section 527(g) as if it constituted a political organization, which has gross receipts of $25,000 or more for the taxable year shall file a return—

"(A) containing the information required, and complying with the other requirements, under subsection (a)(1) for organizations exempt from taxation under section 501(a), and

"(B) containing such other information as the Secretary deems necessary to carry out the provisions of this subsection.

"(2) EXCEPTIONS FROM FILING.—

"(A) MANDATORY EXCEPTIONS.—Paragraph (1) shall not apply to an organization—

"(i) which is an exempt State or local political organization (as defined in section 527(e)(5)),

"(ii) which is a State or local committee of a political party, or political committee of a State or local candidate, as defined by State law,

"(iii) which is a caucus or association of State or local elected officials,

"(iv) which is a national association of State or local officials,

"(v) which is an authorized committee (as defined in section 301(6) of the Federal Election Campaign Act of 1971) of a candidate for Federal office,

"(vi) which is a national committee (as defined in section 301(14) of the Federal Election Campaign Act of 1971) of a political party, or

"(vii) to which section 527 applies for the taxable year solely by reason of subsection (f)(1) of such section.

"(B) DISCRETIONARY EXCEPTION.—The Secretary may relieve any organization required under paragraph (1) to file an information return from filing such a return where he determines that such filing is not necessary to the efficient administration of the internal revenue laws.".

(d) WAIVER OF PENALTIES.—Section 527 is amended by adding at the end the following:

"(k) AUTHORITY TO WAIVE.—The Secretary may waive all or any portion of the—

"(1) tax assessed on an organization by reason of the failure of the organization to give notice under subsection (i), or

"(2) penalty imposed under subsection (j) for a failure to file a report,

on a showing that such failure was due to reasonable cause and not due to willful neglect.".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by Public Law 106–230.

SEC. 702. NOTIFICATION OF INTERACTION OF REPORTING REQUIREMENTS.

(a) IN GENERAL.—The Secretary of the Treasury, in consultation with the Federal Election Commission, shall publicize information on—

(1) the effect of the amendments made by this Act, and

(2) the interaction of requirements to file a notification or report under section 527 of the Internal Revenue Code of 1986 and reports under the Federal Election Campaign Act of 1971.

(b) INFORMATION.—Information provided under subsection (a) shall be included in any appropriate form, instruction, notice, or other guidance issued to the public by the Secretary of the Treasury or the Federal Election Commission regarding reporting requirements of political organizations (as defined in section 527 of the Internal Revenue Code of 1986) or reporting requirements under the Federal Election Campaign Act of 1971.

SEC. 703. TECHNICAL CORRECTIONS TO SECTION 527 ORGANIZATION DISCLOSURE PROVISIONS.

(a) UNSEGREGATED FUNDS NOT TO AVOID TAX.—Paragraph (4) of section 527(i) (relating to failure to notify) is amended by adding at the end the following new sentence: "For purposes of the preceding sentence, the term 'exempt function income' means any amount described in a subparagraph of subsection (c)(3), whether or not segregated for use for an exempt function.".

(b) PROCEDURES FOR ASSESSMENT AND COLLECTION OF PENALTY.—Paragraph (1) of section 527(j) (relating to required disclosure of expenditures and contributions) is amended by adding at the end the following new sentence: "For purposes of subtitle F, the penalty imposed by this paragraph shall be assessed and collected in the same manner as penalties imposed by section 6652(c).".

(c) APPLICATION OF FRAUD PENALTY.—Section 7207 (relating to fraudulent returns, statements, and other documents) is amended by striking "pursuant to subsection (b) of section 6047 or pursuant to subsection (d) of section 6104" and inserting "pursuant to section 6047(b), section 6104(d), or subsection (i) or (j) of section 527".

(d) DUPLICATE ELECTRONIC AND WRITTEN FILINGS NOT REQUIRED.—Subparagraph (A) of section 527(i)(1) is amended by striking ", electronically and in writing,".

(e) EFFECTIVE DATES.—

(1) SUBSECTIONS (a) AND (b).—The amendments made by subsections (a) and (b) shall apply to failures occurring on or after the date of the enactment of this Act.

(2) SUBSECTIONS (c) AND (d).—The amendments made by subsections (c) and (d) shall take effect as if included in the amendments made by Public Law 106–230.

I. SUMMARY AND BACKGROUND

A. Purpose and Summary

PURPOSE

The bill, H.R. 3991, as amended, (the "Taxpayer Protection and Accountability Act of 2002") provides increased fairness to taxpayers and enhances the confidentiality of returns and return information.

SUMMARY

TITLE I—PENALTIES AND INTEREST

A. Convert Penalty for Failure To Pay Estimated Tax Into an Interest Provision, Increase and Modify Threshold, and Simplify Estimated Tax Calculation for Individuals, Estates, and Trusts

The provision converts the present-law penalty for failure to pay estimated tax into an interest provision for individuals, estates, and trusts; increases the threshold for underpayment of estimated tax from $1,000 to $2,000; and allows both tax withheld and estimated tax paid equally throughout the year to be considered in determining whether the threshold has been met. The provision provides one interest rate per underpayment period for individuals, estates, and trusts. The provision also simplifies the calculation of estimated tax by eliminating the requirement to track each underpayment separately and providing that underpayment balances are cumulative. In addition, under the provision, a 365–day year is used for all estimated tax underpayment calculations regardless of whether the taxable year is a leap year.

B. Exclude Interest on Individual Federal Income Tax Overpayments

The bill excludes from gross income interest that is paid by the IRS to individual taxpayers on overpayments of Federal income tax. However, the exclusion will not apply if the taxpayer's principal purpose for overpaying tax is to take advantage of the exclusion.

C. Abatement of Interest

The bill expands the circumstances in which interest on an underpayment of tax may be abated. Interest is required to be abated on any erroneous refund that was not caused by the taxpayer and on underpayments that are attributable to erroneous written advice furnished by the IRS.

D. Deposits To Suspend Interest

The bill allows taxpayers to limit their exposure to underpayment interest by making a deposit to suspend the running of interest. Amounts deposited can be used to pay an underpayment of tax or can be withdrawn (with interest if made with respect to a disputable tax). The use of a deposit will not affect the ability of the taxpayer to be heard by the Tax Court.

E. Modification of Interest Netting Rules for Individuals

For individual taxpayers, the bill would applies the interest netting rules without regard to the 45–day period in which the Secretary may refund an overpayment of tax without the payment of interest under section 6611(e). Solely for the purpose of applying the interest netting rules, individual taxpayers may treat such period as a period for which interest is allowable on an overpayment at a zero percent rate.

F. Waiver of Certain Penalties for First-Time Unintentional Minor Errors

The bill explicitly permits the IRS to waive, once per taxpayer, the penalties for failure to file tax returns or pay taxes for an unintentional minor error that is committed by an individual taxpayer with a history of tax compliance and the penalty for which would be grossly disproportionate to the action or expense that would have been needed to avoid the error.

G. Frivolous Tax Returns and Submissions

The bill modifies the penalty for filing a frivolous tax return by increasing the penalty to up to $5,000 and by applying it to all taxpayers and to all types of Federal taxes. The bill permits the IRS to dismiss and to impose a penalty on certain submissions that raise frivolous arguments or that are intended to delay or impede tax administration.

H. Clarification of Application of Federal Tax Deposit Penalty

The application of the Federal tax deposit penalty is clarified so that the 10 percent penalty rate only applies in cases where the failure to deposit extends for more than 15 days.

TITLE II—FAIRNESS OF COLLECTION PROCEDURES

A. Permit Installment Agreements That Provide for Partial Payment

The provision clarifies that the IRS is authorized to enter into installment agreements with taxpayers that do not provide for full payment of the taxpayer's liability over the life of the agreement. The provision also requires the IRS to review partial payment installment agreements at least every two years.

B. Extend Time Limit for Contesting IRS Levy

The bill extends the 9-month period for contesting an IRS levy to 2 years.

C. Restore Retirement Savings After Improper Levy

The provision permits a taxpayer to recontribute to an IRA amounts withdrawn pursuant to an IRS levy and returned by the IRS (and interest thereon) if the levy was wrongful or is determined to be premature or otherwise not in accordance with administrative procedures. The IRS is required to pay interest at the

overpayment rate on IRA amounts returned to the taxpayer. Interest on amounts recontributed is not includible in gross income. Any tax attributable to recontributed amounts is abated.

D. Tolling of Statute of Limitations During Review by Taxpayer Advocate Service

The bill modifies the suspension of statute of limitations during consideration by the Taxpayer Advocate of significant hardship applications by applying it only if the date of the decision by the National Taxpayer Advocate is at least 7 days after the date of the taxpayer's application.

E. Study of Liens and Levies

The bill requires the Treasury to conduct a study of the practices of the IRS concerning liens and levies. The study will examine the declining use of liens and levies by the IRS and the practicality of recording liens and levies against property in cases where the cost of such actions exceeds the amount to be realized from the property.

TITLE III—EFFICIENCY OF TAX ADMINISTRATION

A. Termination of Employment of IRS Employees for Misconduct

The bill requires that the Commissioner issue guidelines for determining the appropriate level of discipline, up to and including termination of employment, for the commission or omission of a specified act. The bill also removes from the list of violations (1) the late filing of refund returns and (2) employee versus employees acts. The bill adds to the list of violations (1) willful unauthorized inspection of returns and return information and (2) the requirement that other violations in general be willful. The bill also provides that, notwithstanding any other provision of law, any determination by the Commissioner may not be reviewed.

B. Tax Court Authority To Apply Equitable Recoupment

The provision confirms that the Tax Court may apply the principle of equitable recoupment to the same extent that it may be applied in Federal civil tax cases by the U.S. District Courts or the U.S. Court of Federal Claims.

C. Review of Collection Due Process Cases in Tax Court

The provision consolidates all judicial review of collection due process determinations regarding levies and liens in the United States Tax Court.

D. Chief Counsel Review of Offers-in-Compromise

The provision repeals the requirement that an offer-in-compromise of $50,000 or more must be supported by a written opinion from the Office of Chief Counsel. Written opinions must only be provided if the Secretary determines that an opinion is required with respect to a compromise.

E. Due Date for Electronically Filed Tax Returns

The bill extends the due date for filing and paying individual income taxes to April 30 provided that the taxpayer files the return electronically and pays the entire balance due electronically by that date. The due date for filing by any other method or for filing electronically but paying the balance due by non-electronic means is not changed.

TITLE IV—CONFIDENTIALITY AND DISCLOSURE

A. Disclosure Upon Oral Request of Collection Activities With Respect to a Joint Return

The bill eliminates the requirement for former spouses to make a written request for disclosure of collection activities with respect to a joint return.

B. Taxpayer Representatives Not Subject to Inspection Without Supervisor Approval

The provision clarifies that an IRS employee conducting an examination of a taxpayer is not authorized to inspect a taxpayer representative's return or return information solely on the basis of the representative relationship to the taxpayer. Under the provision, the supervisor of the IRS employee would have to approve such inspection after making a determination that other grounds justified such an inspection.

C. Restrictions on Disclosure in Judicial or Administrative Tax Proceedings of Return and Return Information of Persons Who Are Not Party to Such Proceedings

The provision requires that only the portions of a nonparty return or return information that directly relate to the resolution of an issue in the proceeding are to be disclosed in such proceeding. The nonparty is to be given reasonable notice prior to the disclosure and the opportunity to request that certain material be deleted from the information to be disclosed.

D. Prohibition of Disclosure of Taxpayer Identification Information With Respect to Disclosure of Accepted Offers-in-Compromise

The bill prohibits the disclosure of the taxpayer's address and taxpayer identification number as part of the publicly available summaries of accepted offers-in-compromise.

E. Compliance by Contractors With Confidentiality Safeguards

The provision requires that a State or Federal agency conduct annual on-site reviews of all contractors receiving Federal returns and return information as agents of the agency. The reviews are to assess the contractors' efforts to safeguard Federal returns and return information. The State or Federal agency is required to submit a report of its findings to the IRS and certify annually that all contractors are in compliance with the requirements to safeguard the confidentiality of Federal returns and return information.

F. Requests and Consents to Disclosure Must Contain Recipient and Be Dated When Executed

The provision renders invalid a consent that does not designate a recipient or is not dated at the time of execution. The person submitting the consent to the IRS is required to verify under penalties of perjury that the form was complete and dated at the time it was signed by the taxpayer. The provision requires the consent form to contain a warning, prominently displayed, informing the taxpayer that he or she should not sign the form unless it is complete. All third parties receiving returns and return information by consent are required to: (1) ensure that the information received will be kept confidential; (2) use the information only for the purpose for which it was requested; and (3) not further disclose the information except to accomplish that purpose, unless a separate consent from the taxpayer is obtained.

G. Notice to Taxpayer Concerning Administrative Determination of Browsing; Annual Report

The IRS is required to notify a taxpayer after the Treasury Inspector General for Tax Administration determines that a taxpayer's return or return information has been disclosed or inspected without authorization. The IRS is required to provide information on unauthorized disclosures or inspections of return and return information in its public annual report to the Joint Committee on Taxation.

H. Disclosure in Emergency Circumstances

The bill expands present law to permit disclosure to local law enforcement authorities.

I. Disclosure of Taxpayer Identity for Tax Refund Purposes

The provision allows the IRS to use any means of "mass communication," including the Internet, to notify the taxpayer of an undelivered refund.

J. Disclosure to State Officials Relating to Section 501(c)(3) Organizations

The provision permits the Secretary to disclose to the appropriate State officer: (1) a notice of proposed refusal to recognize an organization as a section 501(c)(3) organization, (2) a notice of proposed revocation of tax-exemption of a section 501(c)(3) organization, (3) the issuance of a proposed deficiency of tax imposed under section 507, chapter 41, or chapter 42, (4) the names and taxpayer identification numbers of organizations that have applied for recognition as section 501(c)(3) organizations, and (5) return and return information of organizations with respect to which information has been disclosed under (1) through (4) above. In addition, the Secretary may disclose or open to inspection the return and return information of an organization that is recognized as tax-exempt under section 501(c)(3), or that has applied for such recognition, to an appropriate State officer if the Secretary determines that disclosure may facilitate the resolution of Federal and State issues relating to the organization. The provision makes disclosures of returns and re-

turn information of section 501(c)(3) organizations subject to many of the disclosure provisions for the return and return information of other organizations.

TITLE V—MISCELLANEOUS

A. Clarification of Definition of Church Tax Inquiry

The provision clarifies that the church tax inquiry procedures do not apply to contacts made by the IRS for the purpose of educating churches with respect to the law governing tax-exempt organizations. For example, the provision clarifies that the IRS would not violate the church tax inquiry procedures when written materials are provided to a church for the purpose of educating the church with respect to the types of activities that are not permissible under section 501(c)(3).

B. Extension of Declaratory Judgment Procedures to Non–501(c)(3) Tax-exempt Organizations and Failure of IRS To Act on Determinations Treated as Exhaustion of Remedies

The provision extends declaratory judgment procedures similar to those currently available only to charities under section 7428 to other section 501(c) determinations. The bill limits jurisdiction over controversies involving such determinations to the United States Tax Court.

C. Treasury Inspector General for Tax Administration Semi-Annual Report on Employee Misconduct

The provision modifies the semi-annual reporting requirement for the Treasury Inspector General for Tax Administration to require that the reporting with respect to allegations of serious IRS employee misconduct include a summary (by category) of the 10 most common complaints made and the number of such common complaints (by category).

D. Annual Report on Awards of Costs and Fees

The provision requires the Treasury Inspector General for Tax Administration to publish (1) annually statistics on the number of payments made pursuant to section 7430 and the amount of each such payment and (2) an analysis of the administrative issues that gave rise to the necessity of making these payments and the changes (if any) that will be implemented by the IRS as a result of such analysis.

E. Annual Report on Abatement of Penalties

The bill requires the Treasury Inspector General for Tax Administration to report to Congress annually a report on abatements of penalties under the Internal Revenue Code.

F. Better Means of Communicating With Taxpayers

The bill requires the Treasury Inspector General for Tax Administration to issue a report to the Congress evaluating whether technological advances, such as e-mail and the fax, permit the utiliza-

tion of alternate means of communicating with taxpayers to eliminate some of the difficulties with the present system.

G. Information Regarding Statute of Limitations

The provision requires the IRS to revise Publication 1 ("Your Rights as a Taxpayer") and the instructions for Form 1040 packages to add a description of the statute of limitations and an explanation of the consequences of failing to file within the prescribed time period.

H. Amendment to Treasury Auction Reforms

The bill permits earlier disclosure by members of the Treasury Borrowing Advisory Committee of anything relating to the securities to be auctioned in a midquarter refunding.

I. Enrolled Agents

The bill adds a new section to the Code permitting the Secretary to prescribe regulations to regulate the conduct of enrolled agents in regard to their practice before the IRS and to permit enrolled agents meeting the Secretary's qualifications to use the credentials or designation "enrolled agent", "EA", or "E.A.".

J. Financial Management Service Fees

The bill allows the Financial Management Service (FMS) to retain a portion of levied funds as payment by the IRS of FMS fees. The amount credited to the taxpayer's account would not, however, be reduced by this fee.

K. Capital Gain Treatment of Timber

The bill provides that an outright sale of timber by the owner of the land from which the timber is cut will be entitled to capital gain treatment.

TITLE VI—LOW-INCOME TAXPAYER CLINICS

The provision increases the authorization for grants to low-income taxpayer clinics to $9 million for 2002, to $12 million for 2003, and to $15 million for 2004 and thereafter. The provision amends the definition of low-income taxpayer clinics by excluding from eligibility for grants clinics that provide routine tax return preparation services (unless the return preparation is in connection with a controversy with the IRS). The provision also authorizes the IRS to promote the benefits and encourage the use of low-income taxpayer clinics.

TITLE VII—REVISIONS TO SECTION 527 ORGANIZATION DISCLOSURE PROVISIONS

The provision provides that a political organization that is a political committee of a State or local candidate, or a local committee of a political party, as defined by State law, is exempt from the requirement to provide notice to the Secretary of its formation and purpose. The provision exempts certain State or local political organizations from the requirement provided by section 527(j)(2) to file

regular reports with the Secretary detailing contribution and expenditure information. Under the provision, a political organization is required to file an income tax return (Form 1120–POL) only if such organization has political organization taxable income for the taxable year. In addition, information returns are required to be filed by political organizations that have gross receipts of $25,000 or more for the taxable year with a number of exceptions. The provision gives the Secretary the authority to waive all or any portion of the taxes imposed on an organization for failure to notify the Secretary of the organization's establishment or the penalties imposed for failure to file a report.

B. Background and Need for Legislation

The provisions approved by the Committee reflect the need for providing increased fairness to taxpayers and enhancing the confidentiality of returns and return information.

C. Legislative History

COMMITTEE ACTION

The Committee on Ways and Means marked up the provisions of the bill on March 20, 2002, and approved the provisions, as amended, by a roll call vote of 34–6 with a quorum present.

COMMITTEE HEARINGS

The following Oversight Subcommittee hearings related to provisions in the bill were held during the 106th Congress:

Annual Report of the Internal Revenue Service National Taxpayer Advocate (February 10, 1999).

1999 Tax Return Filing Season and the IRS Budget for Fiscal Year 2000 (April 13, 1999).

Impact of Complexity in the Tax Code on Individual Taxpayers and Small Businesses (May 25, 1999).

Implementation of the Internal Revenue Service Restructuring and Reform Act of 1998 (July 22, 1999).

Penalty and Interest Provisions in the Internal Revenue Code (January 27, 2000).

2000 Tax Return Filing Season and the IRS Budget for Fiscal Year 2001 (March 28, 2000).

Disclosure of Political Activities of Tax-Exempt Organizations (June 20, 2000).

The following Oversight Subcommittee hearings related to provisions in the bill were held during the 107th Congress:

Report of the National Taxpayer Advocate for Fiscal Year 2000 and Low-Income Taxpayer Clinics Hearing (July 12, 2001).

Tax Code Simplification (July 17, 2001).

Response by Charitable Organizations to the Recent Terrorist Attacks (November 08, 2001).

Annual Reports of the National Taxpayer Advocate for Fiscal Year 2001 and IRS Oversight Board (February 28, 2002).

REPORTS AND STUDIES

The following reports and studies assisted the Committee in developing the Taxpayer Protection and IRS Accountability Act of 2002:

National Taxpayer Advocate's Annual Report to Congress for Fiscal Year 1998 (January 8, 1999).

Joint Committee on Taxation, *Study of Present-Law Penalty and Interest Provisions as Required by Section 3801 of the Internal Revenue Service Restructuring and Reform Act of 1998* (July 22, 1999).

Department of the Treasury, *Report to the Congress on Penalty and Interest Provisions of the Internal Revenue Code* (October 25, 1999).

National Taxpayer Advocate's Annual Report to Congress for Fiscal Year 1999 (January 4, 2000).

Joint Committee on Taxation, *Study of Present-Law Taxpayer Confidentiality and Disclosure Provisions as Required by Section 3802 of the Internal Revenue Service Restructuring and Reform Act of 1998* (January 28, 2000).

Joint Committee on Taxation, *Report of Investigation of Allegations Relating to Internal Revenue Service Handling of Tax-Exempt Organization Matters* (March 16, 2000).

Report on the Internal Revenue Service National Taxpayer Advocate's Fiscal Year 2001 Objectives (June 30, 2000).

Department of the Treasury, *Report to the Congress on Scope and Use of Taxpayer Confidentiality and Disclosure Provisions* (October 2000).

National Taxpayer Advocate's Annual Report to Congress for Fiscal Year 2000 (December 2000).

Joint Committee on Taxation, *Study of the Overall State of the Federal Tax System and Recommendations for Simplification, Pursuant to Section 8022(3)(B) of the Internal Revenue Code of 1986* (JCS–3–01), April 2001.

Report on the Internal Revenue Service National Taxpayer Advocate's Fiscal Year 2002 Objectives (June 30, 2001).

National Taxpayer Advocate's Annual Report to Congress for Fiscal Year 2001 (December 31, 2001).

REQUESTS FOR COMMENTS

The Committee on Ways and Means solicited written comments as follows:

Request for Written Comments on Recent Recommendations on Tax Penalty and Interest Provisions (November 15, 1999).

Request for Written Comments on Joint Committee on Taxation Disclosure Study (February 3, 2000).

Request for Written Comments on Taxpayer Rights (March 19, 2001).

II. EXPLANATION OF THE BILL

TITLE I—REFORMING PENALTY AND INTEREST PROVISIONS

A. Failure To Pay Estimated Tax

(Sec. 101 of the bill and new sec. 6641 of the Code)

1. Convert estimated tax penalty into an interest provision for individuals, estates, and trusts

PRESENT LAW

The Federal income tax system is designed to ensure that taxpayers pay taxes throughout the year based on their income earned and expenses. To the extent that tax is not collected through withholding, taxpayers are required to make quarterly estimated payments of tax. If an individual fails to make the required estimated tax payments under the rules, a penalty is imposed under section 6654. The amount of the penalty is determined by applying the underpayment interest rate to the amount of the underpayment for the period of the underpayment. The amount of the underpayment is the excess of the required payment over the amount (if any) of the installment paid on or before the due date of the installment. The period of the underpayment runs from the due date of the installment to the earlier of (1) the 15th day of the fourth month following the close of the taxable year or (2) the date on which each portion of the underpayment is made. The penalty for failure to pay estimated tax is the equivalent of interest, which is based on the time value of money.

REASONS FOR CHANGE

The present-law penalties for failure to pay estimated tax are essentially a time value of money calculation which is not punitive in nature, but rather compensatory. Because the penalties for failure to pay estimated tax are calculated as interest charges, the Committee believes that conforming their title to the substance of the provision will improve taxpayers' perceptions of the fairness of the estimated tax payment system. Therefore, the Committee finds that the effect of the estimated tax penalties for individuals, estates, and trusts is more appropriately described as interest.

EXPLANATION OF PROVISION

The penalty for failure to pay estimated tax is converted into an interest provision for individuals, estates, and trusts.

EFFECTIVE DATE

The provision is effective for estimated tax payments made for taxable years beginning after December 31, 2002.

2. Increase and revise estimated tax threshold

PRESENT LAW

Taxpayers are not liable for a penalty for the failure to pay estimated tax when the tax shown on the return for the taxable year (or, if no return is filed, the tax), reduced by withholding, is less

than $1,000. This safe harbor does not apply, however, when a taxpayer has paid tax throughout the year solely through estimated tax payments. For such taxpayers, any tax shown on the return for the taxable year, net of estimated tax paid, could subject the taxpayer to the penalty for failure to pay estimated tax (unless another safe harbor applies).

REASONS FOR CHANGE

The Committee believes that by increasing the estimated tax payment threshold, fewer taxpayers will be required to make estimated tax payments. In addition, by including equally-paid estimated tax in the threshold calculation, the de minimis safe harbor will be available to more taxpayers, such as those who pay throughout the year exclusively through estimated tax.

EXPLANATION OF PROVISION

Under the bill, no interest will be charged for underpayments of estimated tax if the tax shown on the return for the taxable year (or, if no return is filed, the tax), reduced by both withholding and/or equally-paid estimated tax is less than $2,000.

EFFECTIVE DATE

The provision is effective for estimated tax payments made for taxable years beginning after December 31, 2002.

3. Apply one interest rate per estimated tax underpayment period for individuals, estates, and trusts

PRESENT LAW

The present-law penalty for failure to pay estimated tax is equal to the underpayment interest rate multiplied by the number of days the underpayment is outstanding, which is the number of days between when the taxpayer should have made the estimated payment and the earlier of (1) the 15th day of the fourth month following the close of the taxable year or (2) the date on which each portion of the underpayment is made. The interest rate, which equals the Federal short-term rate plus three percentage points, is subject to change on the first day of each quarter, which is January 1, April 1, July 1, and October 1.

If interest rates change while an underpayment of estimated tax is outstanding, then taxpayers are required to make separate calculations for the periods before and after the interest rate change. Such calculations generally are needed to cover 15-day periods. For example, the July 1 interest rate occurs 15 days after the June 15 payment date (for calendar-year taxpayers). A change in interest rates, which occurs on the first day of each calendar quarter, would require the use of different interest rates during one estimated tax underpayment period and would increase the number of calculations that a taxpayer must make in calculating a penalty for failure to pay estimated tax.

REASONS FOR CHANGE

When interest rates change during an underpayment period, taxpayers must perform multiple calculations to account for the

change in interest rate. Thus, the Committee finds that, if only one interest rate applied per underpayment period, complexity would be reduced because there generally would be only one interest calculation required per underpayment period.

EXPLANATION OF PROVISION

The interest rates are aligned so that, for any given estimated tax underpayment period, only one interest rate will apply. The underpayment interest rate in effect on the first day of the quarter in which the pertinent estimated payment due date arises is the interest rate that will apply during an entire underpayment period.

EFFECTIVE DATE

The provision is effective for estimated tax payments made for taxable years beginning after December 31, 2002.

4. Provide that underpayment balances are cumulative

PRESENT LAW

Section 6654(b)(1) defines "underpayment" as the amount of an installment due over the amount of any installment paid (including withholding) on or before the due date of the installment. In determining an underpayment penalty for a calendar year taxpayer, the period of underpayment runs for each underpayment from the payment's due date through the earlier of the date on which any portion of the payment is made or the 15th day of the fourth month following the close of the taxable year. Underpayment balances are not cumulative and must be tracked separately for each estimated tax underpayment period.

REASONS FOR CHANGE

Tracking underpayments separately results in additional complexity in calculating interest on underpayments of estimated tax. The Committee thus finds that the calculation of interest on underpayments of estimated tax would be simplified by providing that underpayment balances would roll into the next estimated tax period so that interest would be calculated once per cumulative underpayment, per period.

EXPLANATION OF PROVISION

The definition of "underpayment" is changed to allow existing underpayment balances to be used in underpayment calculations for succeeding estimated payment periods. Taxpayers will now calculate a cumulative underpayment at the end of each underpayment period.

EFFECTIVE DATE

The provision is effective for estimated tax payments made for taxable years beginning after December 31, 2002.

5. Require 365-day year for all estimated tax interest calculations for individuals, estates, and trusts

PRESENT LAW

Under current IRS procedures, taxpayers with outstanding underpayment balances that extend from a leap year through a non-leap year are required to make separate calculations solely to account for the different number of days in the two different years. For example, if a taxpayer has an underpayment outstanding from September 15, 2004, through January 15, 2005, then the taxpayer must account for the period from September 15, 2004, through December 31, 2004, by using a 366-day formula.[1] The taxpayer then must account for the period from January 1, 2005, through January 15, 2005, under a 365-day formula. This calculation is required regardless of whether the interest rate changes on January 1, 2005.

REASONS FOR CHANGE

The Committee finds that complexity in calculating interest on underpayments of estimated tax would be reduced by eliminating the extra calculation that is required for underpayment balances that extend from a leap year to a non-leap year or from a non-leap year to a leap year.

EXPLANATION OF PROVISION

A 365-day year is used for all individual, estate, and trust estimated tax interest calculations.

EFFECTIVE DATE

The provision is effective for estimated tax payments made for taxable years beginning after December 31, 2002.

B. Exclusion From Gross Income for Interest on Overpayments of Income Tax by Individuals

(Sec. 102 of the bill and new sec. 139A of the Code)

PRESENT LAW

Overpayment interest

Interest is included in the list of items that are required to be included in gross income (sec. 61(a)(4)). Interest on overpayments of Federal income tax is required to be included in taxable income in the same manner as any other interest that is received by the taxpayer.[2]

Cash basis taxpayers are required to report overpayment interest as income in the period the interest is received. Accrual basis taxpayers are required to report overpayment interest as income when all events fixing the right to the receipt of the overpayment interest have occurred and the amount can be estimated with reasonable

[1] The year 2004 is a leap year, the year 2005 is not.
[2] Treas. Reg. sec. 1.61–7.

accuracy.[3] Generally, this occurs on the date the appropriate IRS official signs the pertinent schedule of overassessments.[4]

Underpayment interest

A corporate taxpayer is allowed to currently take into account interest paid on underpayments of Federal income tax as an ordinary and necessary business expense. Typically, this results in a current deduction. However, the deduction may be deferred if the interest is required to be capitalized[5] or may be disallowed if and to the extent it is determined to be a cost of earning tax exempt income under section 265.

Section 163(h) of the Code prohibits the deduction of personal interest by taxpayers other than corporations. Noncorporate taxpayers, including individuals, generally are not allowed to deduct interest on the underpayment of Federal income taxes.

Temporary regulations[6] provide that personal interest includes interest paid on underpayments of individual Federal, State or local income taxes, regardless of the source of the income generating the tax liability. This is consistent with the statement in the General Explanation of the Tax Reform Act of 1986 that "(p)ersonal interest also includes interest on underpayments of individual Federal, State, or local income taxes notwithstanding that all or a portion of the income may have arisen in a trade or business, because such taxes are not considered derived from conduct of a trade or business."[7] The validity of the temporary regulation has been upheld in those Circuits that have considered the issue, including the Fourth,[8] Sixth,[9] Eighth,[10] and Ninth Circuits.[11]

Personal interest also includes interest that is paid by a trust, S corporation, or other pass-through entity on underpayments of State or local income taxes. Personal interest does not include interest that is paid with respect to sales, excise or similar taxes that are incurred in connection with a trade or business or an investment activity.[12]

REASONS FOR CHANGE

The Committee believes that there should be consistency in the treatment of interest paid by the Federal government to an individual taxpayer and interest paid by an individual taxpayer to the Federal government. Allowing individual taxpayers to exclude interest on overpayments will treat all individual taxpayers consistently, whether or not they itemize deductions.

EXPLANATION OF PROVISION

The bill excludes overpayment interest that is paid to individual taxpayers on overpayments of Federal income tax from gross income. Interest excluded under the provision is not considered dis-

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[3] Treas. Reg. sec. 1.451–1(a).
[4] Rev. Rul. 62–160, 1962–2 C.B. 451.
[5] Interest may be required to be capitalized under section 263A and similar sections.
[6] Treas. Reg. sec. 1.163–9T.
[7] Joint Committee on Taxation, General Explanation of the Tax Reform Act of 1986 (JCS–10–87), p. 266.
[8] *Allen* v. *U.S.,* 173 F. 3d 533 (1999).
[9] *McDonnell* v. *U.S.,* 1999 U.S. app. LEXIS 10842 (1999).
[10] *Miller* v. *U.S.,* 65 F. 3d 687 (1995).
[11] *Redlark* v. *U.S.,* 141 F. 3d 936 (1998).
[12] Treas. Reg. sec. 1.163–9T(b)(2)(iii)(A).

qualified income that could limit the earned income credit. Interest excluded under the provision also is not considered in determining what portion of a taxpayer's social security or tier 1 railroad retirement benefits are subject to tax (sec. 86), whether a taxpayer has sufficient taxable income to be required to file a return (sec. 6012(d)), or for any other computation in which interest exempt from tax is otherwise required to be added to adjusted gross income.

The exclusion from income of overpayment interest does not apply if the Secretary determines that the taxpayer's principal purpose for overpaying his or her tax is to take advantage of the exclusion.

For example, a taxpayer prepares his return without taking into account significant itemized deductions of which he is, or should be, aware. Before the expiration of the statute of limitations, the taxpayer files an amended return claiming these itemized deductions and requesting a refund with interest. Unless the taxpayer can establish a principal purpose for originally overpaying the tax other than collecting excludible interest, the Secretary may determine that the principal purpose of waiting to claim the deductions on an amended return was to earn interest that would be excluded from income. In that case, the interest on the overpayment could not be excluded from income.

It is expected that the Secretary will indicate whether the interest is eligible to be excluded from income on the Form 1099 it provides that taxpayer for taxable year in which the underpayment interest is paid.

EFFECTIVE DATE

The provision is effective for interest received in calendar years beginning after the date of enactment.

C. Abatement of Interest

(Sec. 103 of the bill and sec. 6404 of the Code)

PRESENT LAW

In general

The Secretary of the Treasury can abate or suspend the accrual of interest in a number of situations. In general, the Secretary is authorized to abate interest that is not owed by the taxpayer, either because the interest was erroneously or illegally assessed, or because the interest was assessed after the expiration of the period of limitations. The Secretary also may abate interest that is attributable to certain unreasonable errors and delays by the Internal Revenue Service. The Secretary may abate interest where, in his judgment, the administration and collection costs involved do not warrant the collection of the amount due.

The Secretary is required to abate interest in the case of a declared disaster [13] or certain erroneous refunds attributable solely to errors made by the IRS. The Secretary is required to suspend the

[13] Sec. 7508A.

accrual of interest if the IRS fails to contact the taxpayer in a timely manner and in the case of taxpayers serving in a combat zone.[14]

Interest that is abated is not owed by the taxpayer and does not accrue additional interest through compounding or result in any additional penalties. If the accrual of interest is suspended for a period, then that period is not taken into account in determining the interest owed on an underpayment.

Abatement of interest that is erroneously or illegally assessed

Most abatements of interest are a result of adjustments to the underlying tax liability. Underpayment interest is assessed any time an underpayment is assessed. If the underlying tax liability is later adjusted, resulting in a reduction in the amount of the underpayment, the portion of the interest attributable to such adjustment must be abated.

Abatement of interest on erroneous refunds

The Secretary is required to abate interest on an erroneous refund for the period from the issuance of the refund until its return is demanded.[15] Since the taxpayer has 21 days from the date of demand to pay without interest,[16] no interest must be paid as the result of an erroneous refund if the taxpayer repays the refund within 21 days of the IRS asking for its return. If the taxpayer does not repay the refund within the 21 day grace period, interest must be paid from the date the return of the refund is demanded. The rule abating interest in the case of erroneous refunds does not apply if the taxpayer (or a related party) has in any way caused the erroneous refund or if the amount of the erroneous refund exceeds $50,000.

Abatement of penalties and additions to tax attributable to erroneous written advice given by the IRS

The Secretary is required to abate any portion of any penalty or addition to tax attributable to erroneous advice furnished to the taxpayer in writing by an officer or employee of the IRS acting in his or her official capacity. The abatement applies only if (1) the advice is given in response to a specific written request made by the taxpayer, (2) the taxpayer reasonably relied on the advice, and (3) the taxpayer provided adequate and accurate information.[17]

Only penalties and additions to tax that are attributable to erroneous written advice given by the IRS are abated under this rule. Interest is abated only to the extent that it is attributable to abated penalties and additions to tax. Interest attributable to an underpayment of tax, where such underpayment is the result of the taxpayer's proper reliance on written advice of the IRS, is not eligible for abatement.

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[14] Sec. 7508.

[15] Sec. 6404(e)(2).

[16] Sec. 6601(e)(3). The period for paying without interest is 10 days from the date of demand if the underpayment exceeds $100,000.

[17] Sec. 6404(f).

Procedures for the abatement of interest

Taxpayers may apply for the abatement of interest by filing a claim on Form 843 with the Internal Revenue Service Center that has assessed the interest the taxpayer seeks to have abated.[18]

Typically, interest is abated when the amount of tax assessed is reduced. Thus, any procedure that may result in the reduction of assessed tax may also result in an abatement of interest.

REASONS FOR CHANGE

The Committee believes that there are additional situations in which it is not appropriate for the Secretary to collect interest on an underpayment of tax.

EXPLANATION OF PROVISION

Allow for the abatement of interest in situations where the taxpayer is repaying an excessive refund based on IRS calculations without regard to the size of the refund

The provision eliminates the $50,000 threshold for abatement of interest on erroneous refunds. Under the bill, the Secretary is required to abate interest on any erroneous refund, provided the taxpayer has not in any way caused the erroneous refund to occur.

Allow the abatement of interest to the extent the interest is attributable to taxpayer reliance on written statements of the IRS

The bill requires the Secretary to abate interest on an underpayment where the underpayment is attributable to erroneous advice furnished to the taxpayer in writing by an officer or employee of the IRS acting in his or her official capacity. It is anticipated that the abatement would apply to interest attributable to the period of time from the issuance of the erroneous advice through the day that is 21 days (10 days in the case of an underpayment in excess of $100,000) after the day the IRS gives written notice that its advice was erroneous. The bill does not eliminate the taxpayer's obligation to satisfy any underpayment of tax attributable to such erroneous advice.

EFFECTIVE DATE

The changes made by these provisions are effective with respect to interest accruing on or after the date of enactment.

D. Deposits Made To Suspend the Running of Interest on Potential Underpayments

(Sec. 104 of the bill and new sec. 6603 of the Code)

PRESENT LAW

Generally, interest on underpayments and overpayments continues to accrue during the period that a taxpayer and the IRS dispute a liability. The accrual of interest on an underpayment is suspended if the IRS fails to notify an individual taxpayer in a timely

[18] Rev. Proc. 87–43, 1987–2 C.B. 590.

manner,[19] but interest will begin to accrue once the taxpayer is properly notified. No similar suspension is available for other taxpayers.

A taxpayer that wants to limit its exposure to underpayment interest has a limited number of options. The taxpayer can continue to dispute the amount owed and risk paying a significant amount of interest. If the taxpayer continues to dispute the amount and ultimately loses, the taxpayer will be required to pay interest on the underpayment from the original due date of the return until the date of payment.

In order to avoid the accrual of underpayment interest, the taxpayer may choose to pay the disputed amount and immediately file a claim for refund. Payment of the disputed amount will prevent further interest from accruing if the taxpayer loses (since there is no longer any underpayment) and the taxpayer will earn interest on the resultant overpayment if the taxpayer wins. However, the taxpayer will generally lose access to the Tax Court if it follows this alternative.[20] Amounts paid generally cannot be recovered by the taxpayer on demand, but must await final determination of the taxpayer's liability. Even if an overpayment is ultimately determined, overpaid amounts may not be refunded if they are eligible to be offset against other liabilities of the taxpayer.[21]

The taxpayer may also make a deposit in the nature of a cash bond. The procedures for making a deposit in the nature of a cash bond are provided in Rev. Proc. 84–58.[22]

A deposit in the nature of a cash bond will stop the running of interest on an amount of underpayment equal to the deposit, but the deposit does not itself earn interest. A deposit in the nature of a cash bond is not a payment of tax and is not subject to a claim for credit or refund. A deposit in the nature of a cash bond may be made for all or part of the disputed liability and generally may be recovered by the taxpayer prior to a final determination. However, a deposit in the nature of a cash bond need not be refunded to the extent the Secretary determines that the assessment or collection of the tax determined would be in jeopardy, or that the deposit should be applied against another liability of the taxpayer in the same manner as an overpayment of tax.[23] If the taxpayer recovers the deposit prior to final determination and a deficiency is later determined, the taxpayer will not receive credit for the period in which the funds were held as a deposit. The taxable year to which the deposit in the nature of a cash bond relates must be designated, but the taxpayer may request that the deposit be applied to a different year under certain circumstances.[24]

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[19] Sec. 6404(g).

[20] The taxpayer may, however, sue the IRS for the refund in either the U.S. District Court or the U.S. Court of Federal Claims.

[21] The amount of any overpayment, including interest thereon, may be credited against any other internal revenue tax liability of the taxpayer (sec. 6402(a)). In addition, the overpayment and any overpayment interest may be used to offset past due support payments (sec. 6402(c)), debts owed to other Federal agencies (sec. 6402(d)), and past due, legally enforceable State income tax obligations of residents of the same State (sec. 6402(e)).

[22] 1984–2 C.B. 501.

[23] Rev. Proc. 84–58, sec. 4.02(1).

[24] Id. sec. 4.02(4).

REASONS FOR CHANGE

The Committee believes that an improved deposit system that allows for the payment of interest on amounts that are not ultimately needed to offset tax liability when the taxpayer's position is upheld, as well as allowing for the offset of tax liability when the taxpayer's position fails, will provide an effective way for taxpayers to manage their exposure to underpayment interest. However, the Committee believes that such an improved deposit system should be reserved for the issues that are known to both parties, either through IRS examination or voluntary taxpayer disclosure.

EXPLANATION OF PROVISION

In general

The bill allows a taxpayer to deposit cash with the IRS that may subsequently be used to pay an underpayment of income, gift, estate, generation-skipping, or certain excise taxes. Interest will not be charged on the portion of the underpayment that is paid by the deposited amount for the period the amount is on deposit. Generally, deposited amounts that have not been used to pay a tax may be withdrawn at any time if the taxpayer so requests in writing. The withdrawn amounts will earn interest at the applicable Federal rate to the extent they are attributable to a disputable tax.

The Secretary may issue rules relating to the making, use, and return of the deposits.

Use of a deposit to offset underpayments of tax

Any amount on deposit may be used to pay an underpayment of tax that is ultimately assessed. If an underpayment is paid in this manner, the taxpayer will not be charged underpayment interest on the portion of the underpayment that is so paid for the period the funds were on deposit.

For example, assume a calendar year individual taxpayer deposits $20,000 on May 15, 2003, with respect to a disputable item on its 2002 income tax return. On April 15, 2005, an examination of the taxpayer's year 2002 income tax return is completed, and the taxpayer and the IRS agree that the taxable year 2002 taxes were underpaid by $25,000. The $20,000 on deposit is used to pay $20,000 of the underpayment, and the taxpayer also pays the remaining $5,000. In this case, the taxpayer will owe underpayment interest from April 15, 2003 (the original due date of the return) to the date of payment (April 15, 2005) only with respect to the $5,000 of the underpayment that is not paid by the deposit. The taxpayer will owe underpayment interest on the remaining $20,000 of the underpayment only from April 15, 2003, to May 15, 2003, the date the $20,000 was deposited.

Withdrawal of amounts

A taxpayer may request the withdrawal of any amount of deposit at any time. The Secretary must comply with the withdrawal request unless the amount has already been used to pay tax or the Secretary properly determines that collection of tax is in jeopardy. Interest will be paid on deposited amounts that are withdrawn at a rate equal to the short-term applicable Federal rate for the period from the date of deposit to a date not more than 30 days preceding

the date of the check paying the withdrawal.[25] Interest is not payable to the extent the deposit was not attributable to a disputable tax.

For example, assume a calendar year individual taxpayer receives a 30-day letter showing a deficiency of $20,000 for taxable year 2002 and deposits $20,000 on May 15, 2004. On April 15, 2005, an administrative appeal is completed, and the taxpayer and the IRS agree that the 2002 taxes were underpaid by $15,000. $15,000 of the deposit is used to pay the underpayment. In this case, the taxpayer will owe underpayment interest from April 15, 2003 (the original due date of the return) to May 15, 2004, the date the $20,000 was deposited. Simultaneously with the use of the $15,000 to offset the underpayment, the taxpayer requests the return of the remaining amount of the deposit (after reduction for the underpayment interest owed by the taxpayer from April 15, 2001, to May 15, 2002). This amount must be returned to the taxpayer with interest determined at the short-term applicable Federal rate from May 15, 2004, to a date not more than 30 days preceding the date of the check repaying the deposit to the taxpayer.

Limitation on amounts for which interest may be allowed

Interest on a deposit that is returned to a taxpayer shall be allowed for any period only to the extent attributable to a disputable item for that period. A disputable item is any item for which the taxpayer (1) has a reasonable basis for the treatment used on its return and (2) reasonably believes that the Secretary also has a reasonable basis for disallowing the taxpayer's treatment of such item.

All items included in a 30-day letter to a taxpayer are deemed disputable for this purpose. Thus, once a 30-day letter has been issued, the disputable amount cannot be less than the amount of the deficiency shown in the 30-day letter. A 30-day letter is the first letter of proposed deficiency that allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals.

Deposits are not payments of tax

A deposit is not a payment of tax prior to the time the deposited amount is used to pay a tax. Thus, the interest received on withdrawn deposits will not be eligible for the proposed exclusion from income of an individual. Similarly, withdrawal of a deposit will not establish a period for which interest was allowable at the short-term applicable Federal rate for the purpose of establishing a net zero interest rate on a similar amount of underpayment for the same period.

EFFECTIVE DATE

The provision applies to deposits made after the date of enactment. Amounts already on deposit as of the date of enactment are treated as deposited (for purposes of applying this provision) on the date the taxpayer identifies the amount as a deposit made pursuant to this provision.

[25] This 30-day period is consistent with other determinations of interest owed to a taxpayer.

E. Expansion of Interest Netting for Individuals

(Sec. 105 of the bill and sec. 6621 of the Code)

PRESENT LAW

A special net interest rate of zero applies to the extent that, for any period, interest is payable under subchapter A and allowable under subchapter B on equivalent underpayments and overpayments by the same taxpayer.[26] If both the underpayment and overpayment are unsatisfied, the interest rate applied to both will be zero. If either the underpayment or overpayment has previously been satisfied, the interest rate applicable to the unsatisfied amount will be equal to the interest rate applicable to the satisfied amount to the extent that interest was allowable or payable on both the underpayment and the overpayment for the same period.

Interest must be both payable and allowable for interest netting to apply. If interest is not payable by the taxpayer with respect to an underpayment of tax, or interest is not allowable to the taxpayer on an overpayment of tax, the interest netting rules will not apply.

For example, on July 1, 2003, a deficiency of $1,500 is determined with respect to an individual taxpayer's 2000 Federal income tax return, which the taxpayer pays within 21 days. In the meantime, the taxpayer has filed returns for 2001 and 2002, showing a refund due to overwithholding each year of $1,000. The IRS issues the appropriate refund checks on May 15 of each year, within 45 days of the due date of the return. Thus, interest is not allowable to the taxpayer with respect to either 2001 or 2002.[27] In this case, the taxpayer owes interest on the $1500 year 2000 underpayment from the original due date of the return (April 15, 2001) until the underpayment is satisfied.[28] Although, there are offsetting periods of overpayment (April 15, 2002 to May 15, 2002 and April 15, 2003 to May 15, 2003), there is no offsetting period for which interest is allowable on an overpayment.

REASONS FOR CHANGE

The Committee believes that individual taxpayers should be allowed to consider the period of time the Secretary is allowed to process a refund in determining a net interest rate.

EXPLANATION OF PROVISION

In the case of an individual taxpayer, the interest netting rules are applied without regard to the 45-day period in which the Secretary may refund an overpayment of tax without the payment of interest under section 6611(e). Solely for the purpose of the interest netting computation, the portion of the 45-day period before repayment of the overpayment is considered as a period for which overpayment interest was allowable at a zero rate. The provision does not modify the period for which interest is payable or allowable for any other purpose.

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[26] This provision was enacted in section 3301 of the IRS Reform Act.

[27] Sec. 6611(e)(1) provides that no interest will be allowable if any overpayment of tax is refunded within 45 days after the return is filed.

[28] If the underpayment is satisfied within 21 days of the determination on July 1, 2003, the taxpayer does not owe interest for any portion of time after that date (sec. 6601(e)(3)).

In the example discussed as part of present law, above, a net interest rate of zero would be applied to $1,000 of the taxpayer's year 2000 underpayment for the periods between the due date of the 2002 and 2003 returns and the dates on which the refunds are made. The taxpayer in the example would owe interest at the underpayment rate for the periods from April 16, 2001 to April 16, 2002; May 16, 2002 to April 16, 2003; and from May 16, 2003 to July 1, 2003. For the periods April 16 to May 15, 2002 and April 16, 2003 to May 15, 2003, a zero net interest rate will apply.

EFFECTIVE DATE

The provision is effective for interest accrued after December 31, 2002.

F. Waiver of Certain Penalties for First-Time Unintentional Minor Errors

(Sec. 106 of the bill and sec. 6651 of the Code)

PRESENT LAW

Taxpayers who fail to file tax returns or pay taxes as required by the Code are subject to penalty (sec. 6651). The Code authorizes the IRS to waive these penalties for reasonable cause. There is no explicit statutory provision providing a waiver for first-time unintentional minor errors.

REASONS FOR CHANGE

The Committee recognizes that the Secretary has broad authority to abate penalties[29] generally, as well as specific authority to waive these penalties for reasonable cause.[30] The Committee believes that the Secretary has not always exercised this authority with respect to unintentional, minor errors that are committed by individual taxpayers.[31] The Committee believes that it will promote effective tax administration to add to the Secretary's authority an explicit waiver for certain first-time unintentional minor errors. The Committee intends that this addition to the Secretary's authority not be considered to diminish or constrain in any respect the Secretary's authority to abate or waive these penalties under present law.

EXPLANATION OF PROVISION

The bill explicitly permits the IRS to waive these penalties for unintentional minor errors that are committed by an individual taxpayer with a good history of tax compliance and the penalty for which would be grossly disproportionate to the action or expense that would have been needed to avoid the error. Waiving these penalties under these circumstances must also promote tax compliance and effective tax administration. This waiver is applicable once to a taxpayer.

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[29] Sec. 6404.
[30] Sec. 6651(a)(1), (2), and (3),
[31] See National Taxpayer Advocate FY 2001 Annual Report to Congress (NTA 2001 Report) (December 31, 2001), p. 188.

EFFECTIVE DATE

The provision is effective after December 31, 2002.

G. Frivolous Tax Returns and Submissions

(Sec. 107 of the bill and sec. 6702 of the Code)

PRESENT LAW

The Code provides that an individual who files a frivolous income tax return is subject to a penalty of $500 imposed by the IRS (sec. 6702). The Code also permits the Tax Court[32] to impose a penalty of up to $25,000 if a taxpayer has instituted or maintained proceedings primarily for delay or if the taxpayer's position in the proceeding is frivolous or groundless (sec. 6673(a)).

REASONS FOR CHANGE

The Committee believes that adopting this provision from the President's budget proposal will improve effective tax administration.

EXPLANATION OF PROVISION

The bill modifies this IRS-imposed penalty by increasing the amount of the penalty to up to $5,000 and by applying it to all taxpayers and to all types of Federal taxes.

The provision also modifies present law with respect to certain submissions that raise frivolous arguments or that are intended to delay or impede tax administration. The submissions to which this provision applies are requests for a collection due process hearing, installment agreements, offers-in-compromise, and taxpayer assistance orders. First, the provision permits the IRS to dismiss such requests. Second, the provision permits the IRS to impose a penalty of up to $5,000 for such requests, unless the taxpayer withdraws the request after being given an opportunity to do so.

The provision requires the IRS to publish a list of positions, arguments, requests, and proposals determined to be frivolous for purposes of these provisions.

EFFECTIVE DATE

The provision is effective for submissions made and issues raised after the date on which the Secretary first prescribes the required list.

H. Clarification of Application of Federal Tax Deposit Penalty

(Sec. 108 of the bill)

PRESENT LAW

In many instances, taxpayers are required to make deposits of Federal taxes (sec. 6302). Failure to do so is subject to a penalty (sec. 6656). The amount of that penalty depends on the length of time that the deposit was not made. The penalty is 2 percent of the

[32] Because in general the Tax Court is the only pre-payment forum available to taxpayers, it deals with most of the frivolous, groundless, or dilatory arguments raised in tax cases.

underpayment if the failure to deposit is for not more than 5 days, 5 percent for 6 through 15 days, and 10 percent for more than 15 days. The IRS has stated its position that the 10 percent penalty rate automatically applies if a deposit is not made in the manner required.[33]

REASONS FOR CHANGE

The Committee believes that the position of the IRS does not reflect the intent of the Congress in enacting this penalty, that the rate of the penalty vary depending on the time of the failure, whether the failure being penalized is a failure to make a deposit in the manner required or a failure to make a deposit at all. The Committee considers it anomalous that the IRS would interpret this penalty so that individuals who make the correct deposit but not in the manner required are penalized at a higher rate than those that do not make a deposit at all until several days after the due date. The Committee believes it is more appropriate to penalize taxpayers in similar situations similarly.

EXPLANATION OF PROVISION

The application of the Federal tax deposit penalty is clarified so that the 10 percent penalty rate only applies in cases where the failure to deposit extends for more than 15 days. Thus, a taxpayer who makes a deposit on time but not in the manner required will be subject to a penalty of 2 percent.

EFFECTIVE DATE

The provision is effective on the date of enactment.

TITLE II—IMPROVING THE FAIRNESS OF IRS COLLECTION PROCEDURES

A. AUTHORIZE IRS TO ENTER INTO INSTALLMENT AGREEMENTS THAT PROVIDE FOR PARTIAL PAYMENT

(Sec. 201 of the bill and sec. 6159 of the Code)

PRESENT LAW

The Code authorizes the IRS to enter into written agreements with any taxpayer under which the taxpayer is allowed to pay taxes owed, as well as interest and penalties, in installment payments if the IRS determines that doing so will facilitate collection of the amounts owed (sec. 6159). An installment agreement does not reduce the amount of taxes, interest, or penalties owed. Generally, during the period installment payments are being made, other IRS enforcement actions (such as levies or seizures) with respect to the taxes included in that agreement are held in abeyance.[34]

Prior to 1998, the IRS administratively entered into installment agreements that provided for partial payment (rather than full payment) of the total amount owed over the period of the agreement. In that year, the IRS Chief Counsel issued a memorandum

[33] Rev. Rul. 95–68, 1995–2 C.B. 272, 273; Rev. Proc. 90–58, 1990–2 C.B. 642.
[34] Sec. 6331(k).

concluding that partial payment installment agreements were not permitted.

REASONS FOR CHANGE

The Committee believes that clarifying that the IRS is authorized to enter into installment agreements with taxpayers which do not provide for full payment of the taxpayer's liability over the life of the agreement will improve effective tax administration.

The Committee recognizes that some taxpayers are unable or unwilling to enter into a realistic offer in compromise.[35] The Committee believes that these taxpayers should be encouraged to make partial payments toward resolving their tax liability, and that providing for partial payment installment agreements will help facilitate this. The Committee also believes, however, that the offer in compromise program should remain the sole avenue via which taxpayers fully resolve their tax liabilities and attain a fresh start.

EXPLANATION OF PROVISION

The provision clarifies that the IRS is authorized to enter into installment agreements with taxpayers which do not provide for full payment of the taxpayer's liability over the life of the agreement. The provision also requires the IRS to review partial payment installment agreements at least every two years. The primary purpose of this review is to determine whether the financial condition of the taxpayer has significantly changed so as to warrant an increase in the value of the payments being made.

EFFECTIVE DATE

The provision is effective for installment agreements entered into on or after the date of enactment.

B. Extend Time Limit for Contesting IRS Levy

(Sec. 202 of the bill and sec. 6343 of the Code)

PRESENT LAW

The IRS is authorized to return property that has been wrongfully or mistakenly levied upon (sec. 6343). In general, monetary proceeds may be returned within 9 months of the date of the levy.

REASONS FOR CHANGE

The Committee understands that in many cases this 9-month period may be insufficient for taxpayers or third parties to discover a wrongful or mistaken levy and seek to remedy it.[36] Accordingly, the Committee believes it is appropriate to provide for a longer period of time within which a person may contest a wrongful IRS levy.

EXPLANATION OF PROVISION

The bill extends this 9-month period to 2 years.

[35] Sec. 7122.
[36] NTA 2001 Report, p. 205.

EFFECTIVE DATE

The provision is effective on the date of enactment.

C. RESTORATION OF RETIREMENT SAVINGS AFTER IMPROPER LEVY

(Sec. 203 of the bill and sec. 6343 of the Code)

PRESENT LAW

Distributions from an individual retirement arrangement ("IRA") made on account of an IRS levy are includible in the gross income of the individual under the rules applicable to the IRA subject to the levy. Thus, in the case of a traditional IRA, the amount withdrawn as a result of a levy is includible in gross income except to the extent such amount represents a return of nondeductible contributions (i.e., basis). In the case of a Roth IRA, earnings on a distribution are excludable from gross income if the distribution is made (1) after the five-taxable year period beginning with the first taxable year for which the individual made a contribution to a Roth IRA and (2) after attainment of age 59½ or on account of certain other circumstances. Amounts withdrawn from an IRA due to a levy are not subject to the 10-percent early withdrawal tax, regardless of whether the amount is includible in income.

Present law provides rules under which the IRS returns amounts subject to a levy. For example, amounts withdrawn from an IRA pursuant to a levy are returned to the individual owning the IRA in the case of a wrongful levy or if the levy was not in accordance with IRS administrative procedures. In the case of a wrongful levy, the IRS is required to pay interest on the amount returned to the individual at the overpayment rate.

Present law does not provide special rules to allow an individual to recontribute to an IRA amounts withdrawn from an IRA pursuant to a levy and later returned to the individual by the IRS (or interest thereon). Thus, if an individual wishes to contribute such returned amounts to an IRA, the contribution would be subject to the normally applicable rules for IRA contributions.

REASONS FOR CHANGE

IRA assets provide an important source of retirement income for many Americans. Under present law, if the IRS levies on an IRA, the individual owning the IRA may not be made whole, even if the IRS returns the amount levied, with interest, because the individual may lose the opportunity to have those funds accumulate on a tax-favored basis until retirement. The Committee believes that levies should not reduce retirement income security for IRA owners. Thus, the Committee bill provides that IRA funds that are withdrawn pursuant to an IRS levy and returned by the IRS may be recontributed to the IRA.

EXPLANATION OF PROVISION

Under the provision, an individual is able to recontribute to an IRA amounts withdrawn pursuant to a levy and returned by the IRS (and any interest thereon) within 60 days of receipt by the individual, without regard to the normally applicable limits on IRA contributions and rollovers. The provision applies to levied

amounts returned to the individual because the levy (1) was wrongful or (2) is determined to be premature or otherwise not in accordance with administrative procedures. The contribution has to be made to the same type of IRA from which the amounts were withdrawn.

Under the provision, the IRS is required to pay interest on amounts returned to the individual at the overpayment rate in the case of a levy that is determined to be premature or otherwise not in accordance with administrative procedures (as well as in the case of a wrongful levy under present law). Interest paid by the IRS on the amount returned to the individual and contributed to the IRA is treated as part of the distribution made from the IRA on account of the levy and is not includible in gross income. In addition, any tax attributable to an amount distributed from an IRA by reason of a levy is abated if the amount is recontributed to an IRA pursuant to the provision.

EFFECTIVE DATE

The provision is effective for levied amounts (and interest thereon) returned to individuals after December 31, 2002.

D. Place Threshold on Tolling of Statute of Limitations During Review by Taxpayer Advocate Service

(Sec. 204 of the bill and sec. 7811 of the Code)

PRESENT LAW

Taxpayers suffering significant hardship may request that the Office of the Taxpayer Advocate issue a Taxpayer Assistance Order, which requires the IRS to take (or refrain from taking) specified actions (sec. 7811). The statute of limitations is suspended for the period beginning on the date of the taxpayer's application and ending on the date of the decision by the National Taxpayer Advocate.

REASONS FOR CHANGE

The Committee believes that the administration of this suspension of the statute of limitations would be improved by disregarding relatively short periods of review by the Taxpayer Advocate.

EXPLANATION OF PROVISION

The bill modifies this suspension of statute of limitations by applying it only if the date of the decision by the National Taxpayer Advocate is at least 7 days after the date of the taxpayer's application.

EFFECTIVE DATE

The provision is effective on the date of enactment.

E. Study of Liens and Levies

(Sec. 205 of the bill)

PRESENT LAW

To aid in the collection of tax liabilities, the IRS may impose liens and levies against property of the taxpayer.

REASONS FOR CHANGE

The Committee is aware of situations in which the IRS appears to be misusing its resources by imposing liens on taxpayers' assets for tax debts that are significantly less than the cost of executing and recording a lien. The Committee is also concerned about the significant recent decline in the use by the IRS of certain enforcement actions, including liens and levies. The Committee believes that both of these situations may be related, at least in part, to improper personnel training or supervision.[37] Accordingly, the Committee believes that a study of these provisions and their administration could provide the Committee with valuable information.

EXPLANATION OF PROVISION

The bill requires the Treasury to conduct a study of the practices of the IRS concerning liens and levies. The study will examine the declining use of liens and levies by the IRS and the practicality of recording liens and levies against property in cases where the cost of such actions exceeds the amount to be realized from the property.

EFFECTIVE DATE

The study is required to be submitted to the Congress not later than one year after the date of enactment.

TITLE III—IMPROVING THE EFFICIENCY OF TAX ADMINISTRATION

A. Revisions Relating to Termination of Employment of IRS Employees for Misconduct

(Sec. 301 of the bill and new sec. 7804A of the Code)

PRESENT LAW

Section 1203 of the IRS Restructuring and Reform Act of 1998 requires the IRS to terminate an employee for certain proven violations committed by the employee in connection with the performance of official duties. The violations include: (1) willful failure to obtain the required approval signatures on documents authorizing the seizure of a taxpayer's home, personal belongings, or business assets; (2) providing a false statement under oath material to a matter involving a taxpayer; (3) with respect to a taxpayer, taxpayer representative, or other IRS employee, the violation of any right under the U.S. Constitution, or any civil right established under titles VI or VII of the Civil Rights Act of 1964, title IX of the Educational Amendments of 1972, the Age Discrimination in

[37] See IRS Oversight Board FY 2001 Annual Report to Congress (January 2002), Table 2.

Employment Act of 1967, the Age Discrimination Act of 1975, sections 501 or 504 of the Rehabilitation Act of 1973 and title I of the Americans with Disabilities Act of 1990; (4) falsifying or destroying documents to conceal mistakes made by any employee with respect to a matter involving a taxpayer or a taxpayer representative; (5) assault or battery on a taxpayer or other IRS employee, but only if there is a criminal conviction or a final judgment by a court in a civil case, with respect to the assault or battery; (6) violations of the Internal Revenue Code, Treasury Regulations, or policies of the IRS (including the Internal Revenue Manual) for the purpose of retaliating or harassing a taxpayer or other IRS employee; (7) willful misuse of section 6103 for the purpose of concealing data from a Congressional inquiry; (8) willful failure to file any tax return required under the Code on or before the due date (including extensions) unless failure is due to reasonable cause; (9) willful understatement of Federal tax liability, unless such understatement is due to reasonable cause; and (10) threatening to audit a taxpayer for the purpose of extracting personal gain or benefit.

Section 1203 also provides non-delegable authority to the Commissioner to determine that mitigating factors exist, that, in the Commissioner's sole discretion, mitigate against terminating the employee. The Commissioner, in his sole discretion, may establish a procedure to determine whether an individual should be referred for such a determination by the Commissioner.

REASONS FOR CHANGE

The Committee believes that clarifying the scope of these provisions and expanding the scope of the disciplinary actions the Commissioner may undertake, as was recommended in the President's budget proposal, will improve these provisions.

EXPLANATION OF PROVISION

The bill requires that the Commissioner issue guidelines for determining the appropriate level of discipline, up to and including termination of employment, for the commission or omission of a specified act. The bill also removes from the list of violations (1) the late filing of refund returns and (2) employee versus employees acts. The bill adds to the list of violations (1) willful unauthorized inspection of returns and return information and (2) the requirement that other violations in general be willful. The bill also provides that, notwithstanding any other provision of law, any determination by the Commissioner may not be reviewed. Finally, the bill places the entire provision in the Internal Revenue Code.

EFFECTIVE DATE

The provision is effective on the date of enactment.

B. Confirmation of Tax Court Authority To Apply Equitable Recoupment

(Sec. 302 of the bill and sec. 6214 of the Code)

PRESENT LAW

Equitable recoupment is a common-law equitable principle that permits the defensive use of an otherwise time-barred claim to re-

duce or defeat an opponent's claim if both claims arise from the same transaction. U.S. District Courts and the U.S. Court of Federal Claims, the two Federal tax refund forums, may apply equitable recoupment in deciding tax refund cases.[38] In *Estate of Mueller* v. *Commissioner,*[39] the Court of Appeals for the Sixth Circuit held that the Tax Court may not apply the doctrine of equitable recoupment. More recently, the Court of Appeals for the Ninth Circuit, in *Branson* v. *Commissioner,*[40] held that the Tax Court may apply the doctrine of equitable recoupment.

REASONS FOR CHANGE

The Committee believes that it is important to resolve this conflict among the circuit courts.

EXPLANATION OF PROVISION

The provision amends section 6214(b) to confirm that the Tax Court may apply the principle of equitable recoupment to the same extent that it may be applied in Federal civil tax cases by the U.S. District Courts or the U.S. Court of Claims. No implication is intended as to whether the Tax Court has the authority to continue to apply other equitable principles in deciding matters over which it has jurisdiction.

EFFECTIVE DATE

The provision is effective for any action or proceeding in the Tax Court with respect to which a decision has not become final as of the date of enactment.

C. Consolidate Review of Collection Due Process Cases in the Tax Court

(Sec. 303 of the bill and sec. 6330 of the Code)

PRESENT LAW

In general, the IRS is required to notify taxpayers that they have a right to a fair and impartial hearing before levy may be made on any property or right to property (sec. 6330(a)). Similar rules apply with respect to liens (sec. 6320). The hearing is held by an impartial officer from the IRS Office of Appeals, who is required to issue a determination with respect to the issues raised by the taxpayer at the hearing. The taxpayer is entitled to appeal that determination to a court. That appeal must be brought to the United States Tax Court, unless the Tax Court does not have jurisdiction over the underlying tax liability. If that is the case, then the appeal must be brought in the district court of the United States (sec. 6330(d)). Special rules apply if the taxpayer files the appeal in the incorrect court.

The United States Tax Court is established under Article I of the United States Constitution[41] and is a court of limited jurisdiction.[42]

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[38] See Stone v. White, 301 U.S. 532 (1937); Bull v. United States, 295 U.S. 247 (1935).
[39] 153 F.3d 302 (6th Cir.), cert. den., 525 U.S. 1140 (1999).
[40] 264 F.3d 904 (9th Cir.), cert. den., 2002 U.S. LEXIS 1545 (U.S. Mar. 18, 2002).
[41] Sec. 7441.
[42] Sec. 7442.

REASONS FOR CHANGE

The Committee believes that clarifying this judicial review provision, as was recommended in the President's budget proposal, will improve its functioning.

EXPLANATION OF PROVISION

The provision consolidates all judicial review of these collection due process determinations in the United States Tax Court.

EFFECTIVE DATE

The provision applies to judicial appeals filed after the date of enactment.

D. Office of Chief Counsel Review of Offers-in-Compromise

(Sec. 304 of the bill and sec. 7122 of the Code)

PRESENT LAW

The IRS has the authority to settle a tax debt pursuant to an offer-in-compromise. IRS regulations provide that such offers can be accepted if the taxpayer is unable to pay the full amount of the tax liability and it is doubtful that the tax, interest, and penalties can be collected or there is doubt as to the validity of the actual tax liability. Amounts of $50,000 or more can only be accepted if the reasons for the acceptance are documented in detail and supported by a written opinion from the IRS Chief Counsel (sec. 7122).

REASONS FOR CHANGE

The Committee believes that eliminating this threshold requiring review, as was recommended in the President's budget proposal, will permit the IRS to focus its review resources on the most important cases, regardless of dollar value.

EXPLANATION OF PROVISION

The provision repeals the requirement that an offer-in-compromise of $50,000 or more must be supported by a written opinion from the Office of Chief Counsel. Written opinions must only be provided if the Secretary determines that an opinion is required with respect to a compromise.

EFFECTIVE DATE

The provision applies to offers-in-compromise submitted or pending on or after the date of enactment.

E. Extend the Due Date for Electronically Filed Tax Returns by 15 Days

(Sec. 305 of the bill and sec. 6072 of the Code)

PRESENT LAW

In general, individuals must file their income tax returns and pay the full amount owed by April 15 (sec. 6072(a)). This deadline applies regardless of the method the taxpayer may choose to submit the tax return to the IRS. The Secretary may grant reasonable

extensions of time for filing returns, but in general the time for paying tax cannot be extended (sec. 6081(a)). Failure to file or pay on a timely basis may subject the taxpayer to interest and penalties.

REASONS FOR CHANGE

The Committee believes that extending the due date for filing and paying individual income taxes to April 30 provided that the taxpayer files the return electronically and pays the entire balance due electronically by that date, which was recommended in the President's budget proposal, will significantly increase the number of tax returns filed electronically. This should reduce the cost of processing tax returns and facilitate meeting the statutory goal of having 80 percent of Federal tax and information returns filed electronically by the year 2007.[43]

EXPLANATION OF PROVISION

The bill extends the due date for filing and paying individual income taxes to April 30 provided that the taxpayer files the return electronically and pays the entire balance due electronically by that date. The due date for filing by any other method or for filing electronically but paying the balance due by non-electronic means is not changed.

EFFECTIVE DATE

The provision is effective for returns filed after December 31, 2002.

TITLE IV—TAXPAYER INFORMATION CONFIDENTIALITY

A. Collection Activities With Respect to a Joint Return Disclosable Based on Oral Request

(Sec. 401 of the bill and sec. 6103(e) of the Code)

PRESENT LAW

Section 6103(e) concerns disclosures to persons with a material interest. Section 6103(e)(7) permits the IRS to disclose return information to the same persons who may have access to a return under the other provisions of section 6103(e). Pursuant to this section 6103(e)(7) and section 6103(e)(1)(B), either spouse may obtain return information regarding a joint return. This includes collection information. Requests for information pursuant to this section do not have to be in writing.

In response to concerns that former spouses were not able to obtain information regarding collection activities relating to a joint return, the Taxpayer Bill of Rights 2 added section 6103(e)(8).[44] When a deficiency is assessed with respect to a joint return, upon written request, section 6103(e)(8) permits the IRS to disclose: (1) whether the IRS has attempted to collect such deficiency from the

[43] Sec. 2001(a) of the Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. 105–206, July 22, 1998.

[44] "The IRS does not routinely disclose collection information to a former spouse that relates to tax liabilities attributable to a joint return that was filed when married." Joint Committee on Taxation, General Explanation of Taxation Legislation Enacted in the 104th Congress (JCS–12–96), December 18, 1996 at 29.

other individual; (2) the general nature of such collection activities; and (3) the amount collected.[45] This provision applies if individuals who filed the joint return are no longer married or no longer reside in the same household. Requests under this section must be in writing.

REASONS FOR CHANGE

The Committee believes that former spouses should be able to receive collection information with respect to a joint return in the same manner as if they were current spouses. Thus, a former spouse should not be required to make a written request because if the spouses were still married, a written request would not be required.

EXPLANATION OF PROVISION

The bill eliminates the requirement for former spouses to make a written request for disclosure of collection activities with respect to a joint return.

EFFECTIVE DATE

The provision applies to requests made after the date of enactment.

B. Taxpayer Representatives Not Subject to Examination Without Supervisor Approval

(Sec. 402 of the bill and sec. 6103(h) of the Code)

PRESENT LAW

Under section 6103(h)(1), returns and return information are, without written request, open to inspection by or disclosure to officers and employees of the Department of the Treasury, including IRS employees, whose official duties require such inspection or disclosure for tax administration purposes. The Office of Chief Counsel issued an opinion stating that it was appropriate for a local IRS employee to examine tax records to determine whether taxpayer representatives who submit Form 2848 (Power of Attorney) are current in their tax obligations.[46] The opinion concluded that section 6103(h)(1) permits local IRS employees to access the Integrated Data Retrieval System[47] to determine whether a taxpayer's representative is current in his or her tax obligations.

REASONS FOR CHANGE

The Committee believes that the official duties of the IRS employee examining a taxpayer concern the tax affairs of the taxpayer, not the taxpayer's representative. The taxpayer is under audit, not the taxpayer's representative. Whether the representative has filed his or her returns ordinarily has no bearing on the IRS's determination of the liability of the taxpayer. An IRS employee should make a referral to the Director of Practice, if the em-

[45] Sec. 6103(e)(8).
[46] Internal Revenue Service, IRS Legal Memorandum ILM 199
[47] The Integrated Data Retrieval System (commonly referred to as "IDRS") is the IRS' primary computer database for return information.

ployee has reason to believe the taxpayer's representative has engaged in inappropriate behavior.

EXPLANATION OF PROVISION

The provision clarifies that an IRS employee conducting an examination of a taxpayer is not authorized to inspect a taxpayer representative's return or return information solely on the basis of the representative's relationship to the taxpayer. Under the provision, the supervisor of the IRS employee is required to approve such inspection after making a determination that other grounds justified such an inspection. The provision does not affect the ability of employees of the IRS Director of Practice, or other employees whose assigned duties concern the regulation of practice before the IRS, to access returns and return information of a representative.

EFFECTIVE DATE

The provision is effective on the date of enactment.

C. DISCLOSURE IN JUDICIAL OR ADMINISTRATIVE TAX PROCEEDINGS OF RETURN AND RETURN INFORMATION OF PERSONS WHO ARE NOT PARTY TO SUCH PROCEEDINGS

(Sec. 403 of the bill and sec. 6103(h) of the Code)

PRESENT LAW

Under section 6103(h)(4), a return or return information may be disclosed in a Federal or State judicial or administrative proceeding pertaining to tax administration under certain circumstances. Under section 6103(h)(4)(A), such information may be disclosed if the taxpayer is a party to the proceeding or if the proceeding arose out of, or in connection with, determining the taxpayer's liability with respect to any tax. Under section 6103(h)(4)(B), such information may be disclosed if the treatment of an item reflected on a return is directly related to the resolution of an issue in the proceeding. Under section 6103(h)(4)(C), such information may be disclosed if the return or return information directly relates to a transactional relationship between a person who is a party to the proceeding and the taxpayer which directly affects the resolution of an issue in the proceeding. Thus, the returns and return information of a nonparty taxpayer may be disclosed if one of these requirements are met. The statute does not require that the nonparty taxpayer be given notice or be consulted prior to disclosure.

REASONS FOR CHANGE

The Committee believes that nonparty taxpayers should be afforded notice of when their returns or return information is disclosed in a judicial or administrative proceeding pertaining to tax administration. The Committee also believes that such nonparty taxpayers should be consulted regarding the disclosure of sensitive information in such a proceeding. The purpose of the provision is to give notice to a nonparty prior to the disclosure of a return or return information. The nonparty notification requirements are not intended to adversely affect the parties to the litigation.

EXPLANATION OF PROVISION

The provision requires that only the portions of a nonparty return or return information that directly relate to the resolution of an issue in the proceeding are to be disclosed in such proceeding. When nonparty returns and return information are to be disclosed under section 6103(h)(4)(B) and (C),[48] the provision requires that an effort be made to give notice to the taxpayer prior to the disclosure. The notice must include a statement of the issue or issues for which such return or return information affects resolution. Finally, the nonparty taxpayer must be given an opportunity to request the deletion of certain matters from the return or return information that would be disclosed. For purposes of S corporations, partnerships, estates, and trusts, the notice is to be made at the entity level.

The provision does not afford a right to intervene or for judicial review of the requested redactions. The notification requirements are not intended to apply to ex parte proceedings for securing a search warrant, orders for entry on premises or safe deposit boxes, or similar ex parte proceedings. The notification requirements do not apply to the disclosure of third party return information by indictment or criminal information. The notice provision also does not apply if it would seriously impair a criminal tax investigation or proceeding. The bill exempts from this provision actions to enjoin income tax return preparers,[49] to enjoin promoters of abusive tax shelters,[50] and to enjoin flagrant political expenditures of section 501(c)(3) organizations.[51]

EFFECTIVE DATE

The provision applies to proceedings commenced after the date of enactment.

D. Prohibition of Disclosure of Taxpayer Identification Information With Respect to Disclosure of Accepted Offers-in-Compromise

(Sec. 404 of the bill and sec. 6103(k) of the Code)

PRESENT LAW

Section 6103 permits the IRS to disclose return information to members of the general public to permit inspection of accepted offers in compromise.[52] The IRS makes summaries of the accepted offers in compromise, Form 7249—Offer Acceptance Report, available for public inspection in the IRS district offices. Currently, this form contains the taxpayer identification number of the taxpayer, e.g., the social security number in the case of an individual taxpayer, along with the taxpayer's name and full address.

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[48] Under the proposal these provisions would be redesignated as clauses ii, and iii of section 6103(h)(4)(A).
[49] Sec. 7407.
[50] Sec. 7408.
[51] Sec. 7409.
[52] Sec. 6103(k)(l).

REASONS FOR CHANGE

Summaries of accepted offers in compromise, Form 7249—Offer Acceptance Report, are available for public inspection in the IRS district offices. Currently, this form contains the taxpayer identification number of the taxpayer, e.g., the social security number in the case of an individual taxpayer, along with the taxpayer's name and full address. The Committee believes that the disclosure of a taxpayer's taxpayer identification number and address is unnecessary and an unwarranted invasion of privacy. In addition, the Committee believes such disclosure provides an opportunity for identity fraud and abuse.

EXPLANATION OF PROVISION

The bill prohibits the disclosure of the taxpayer's address and taxpayer identification number as part of the publicly available summaries of accepted offers in compromise.

EFFECTIVE DATE

The provision applies to disclosures made after the date of enactment.

E. Compliance by Contractors With Confidentiality Safeguards

(Sec. 405 of the bill and sec. 6103(p) of the Code)

PRESENT LAW

Section 6103 permits the disclosure of returns and return information to State agencies, as well as to other Federal agencies for specified purposes. Section 6103(p)(4) requires, as conditions of receiving returns and return information, that State agencies (and others) provide safeguards as prescribed by the Secretary of the Treasury by regulation to be necessary or appropriate to protect the confidentiality of returns or return information.[53] It also requires that a report be furnished to the Secretary at such time and containing such information as prescribed by the Secretary regarding the procedures established and utilized for ensuring the confidentiality of returns and return information.[54] After an administrative review, the Secretary may take such actions as are necessary to ensure these requirements are met, including the refusal to disclose returns and return information.[55]

Under present law, employees of a State tax agency may disclose returns and return information to contractors for tax administration purposes.[56] These disclosures can be made only to the extent necessary to procure contractually equipment, other property, or the providing of services, related to tax administration.[57]

[53] Sec. 6103(p)(4)(D).
[54] Sec. 6103(p)(4)(E).
[55] Sec. 6103(p)(4) (flush language) and (7); Treas. Reg. sec. 301.6103(p)(7)–1.
[56] Sec. 6103(n) and Treas. Reg. sec. 301.6103(n)–1(a). "Tax administration" includes "the administration, management, conduct, direction, and supervision of the execution and application of internal revenue laws or related statutes (or equivalent laws and statutes of a State)* * *" Sec. 6103(b)(4).
[57] Treas. Reg. sec. 301.6013(n)–1(a). Such services include the processing, storage, transmission or reproduction of such returns or return information, the programming, maintenance, repair, or testing of equipment or other property, or the providing of other services for purposes of tax administration.

The contractors can make redisclosures of returns and return information to their employees as necessary to accomplish the tax administration purposes of the contract, but only to contractor personnel whose duties require disclosure.[58] Treasury regulations prohibit redisclosure to anyone other than contractor personnel without the written approval of the IRS.[59]

By regulation, all contracts must provide that the contractor will comply with all applicable restrictions and conditions for protecting confidentiality prescribed by regulation, published rules or procedures, or written communication to the contractor.[60] Failure to comply with such restrictions or conditions may cause the IRS to terminate or suspend the duties under the contract or the disclosures of returns and return information to the contractor.[61] In addition, the IRS can suspend disclosures to the State tax agency until the IRS determines that the conditions are or will be satisfied.[62] The IRS may take such other actions as deemed necessary to ensure that such conditions or requirements are or will be satisfied.[63]

REASONS FOR CHANGE

The Committee notes the increasing use of contractors by government agencies to perform the work of the government. Prior to the organizational restructuring of the IRS, twenty-nine IRS district offices have responsibilities for overseeing safeguard reviews at State and local agencies.[64] In the Committee's view, the IRS has insufficient resources to monitor the compliance of every contractor in addition to its other duties. Further, the Committee finds that it is appropriate to require that Federal and State recipients of tax information monitor and certify that their contractors have in place adequate safeguards to protect this information.

EXPLANATION OF PROVISION

The provision requires that a State or Federal agency conduct annual on-site reviews of all of its contractors receiving Federal returns and return information. If the duration of the contract is less than one year, a review is required at the mid-point of the contract. The purpose of the review is to assess the contractor's efforts to safeguard Federal returns and return information. This review is intended to cover secure storage, restricting access, computer security, and other safeguards deemed appropriate by the Secretary. Under the provision, the State or Federal agency is required to submit a report of its findings to the IRS and certify annually that all contractors are in compliance with the requirements to safeguard the confidentiality of Federal returns and return information. The certification is required to include the name and address

[58] Treas. Reg. sec. 301.6103(n)–1(a) and (b). A disclosure is necessary if such procurement or the performance of such services cannot otherwise be reasonably, properly, or economically accomplished without such disclosure. Treas. Reg. sec. 301.6103(n)–1(b). The regulations limit the quantity of information to that needed to perform the contract.

[59] Treas. Reg. sec. 301.6103(n)–1(a).

[60] Treas. Reg. sec. 301.6103(n)–1(d).

[61] Treas. Reg. sec. 301.6103(n)–1(d)(1).

[62] Treas. Reg. sec. 301.6103(n)–1(d)(2).

[63] Treas. Reg. sec. 301.6103(n)–1(d).

[64] General Accounting Office, Taxpayer Confidentiality: Federal, State, and Local Agencies Receiving Taxpayer Information (GAO–GGD–99–164, August 1999) at 13.

of each contractor, the duration of the contract, and a description of its contract with the State or Federal agency.

This provision does not alter or affect in any way the right of the IRS to conduct safeguard reviews of State or Federal agency contractors. It also does not affect the right of the IRS to initially approve the safeguard language in the contract and the safeguards in place prior to any disclosures made in connection with such contracts.

EFFECTIVE DATE

The provision is effective for disclosures made after December 31, 2002. The first certification is required to be made with respect to calendar year 2003.

F. HIGHER STANDARDS FOR REQUESTS FOR AND CONSENTS TO DISCLOSURE

(Sec. 406 of the bill and sec. 6103 of the Code)

PRESENT LAW

Under section 6103(c), a taxpayer may designate in a request or consent to the disclosure by the IRS of his or her return or return information to a third party. Treasury regulations set forth the requirements for such consent.[65] The Treasury regulations require that the taxpayer sign and date the consent. The taxpayer must also indicate in the written document (1) the taxpayer's taxpayer identity information; (2) the identity of the person to whom disclosure is to be made; (3) the type of return (or specified portion of the return) or return information (and the particular data) that is to be disclosed; and (4) the taxable year covered by the return or return information. The regulations also require that the consent be submitted within 60 days of the date signed and dated, however, at the time of submission, the IRS generally is unaware of whether a consent form was completed or dated after the taxpayer signs it. Present law does not require that a recipient receiving returns or return information by consent maintain the confidentiality of the information received. Under present law, the recipient is also free to use the information for purposes other than for which the information was solicited from the taxpayer.

Section 6103(c) consents are often used in connection with mortgage loan applications. Mortgage originators qualify loan applicants as meeting or not meeting the requirements for loan approval. This process involves the verification and investigation of information and conditions. If the loan is granted, the mortgage originator may use its own money to fund the loan. Alternatively, another entity, an "investor," may buy the loan and provide the money. Investors typically perform a re-investigation of loans received for funding. Such re-investigations may include verification through the IRS of the tax return provided by the taxpayer to the mortgage originator.

Usually the mortgage originator does not know which investor will ultimately fund the loan. Thus, at the time of application, the originator asks the borrower/taxpayer to sign a consent (Form 4506) designating the originator as the third party to receive the

[65] Treas. Reg. sec. 301.6103(c)–1.

taxpayer's returns. Subsequently, at closing, the investor may request that the originator obtain another Form 4506 naming the investor as the third party to receive the taxpayer's return.

Ostensibly to avoid confusion over why the taxpayer would be authorizing a party other than the originator to receive his tax return, the taxpayer may be asked to sign a blank Form 4506 at closing. In some cases, mortgage originators ask taxpayers not to date the Form 4506. This allows the form to be submitted to the IRS at a later date, often months or years later, for purposes of mortgage resale.

Under section 7206, it is a felony to willfully make and subscribe any document that contains or is verified by a written declaration that it is made under penalties of perjury and which such person does not believe to be true and correct as to every material matter.[66] Upon conviction, such person may be fined up to $100,000 ($500,000 in the case of a corporation) or imprisoned up to 3 years, or both, together with the costs of prosecution.

REASONS FOR CHANGE

The Committee does not believe that the practice of asking taxpayers to sign blank or undated consent forms is appropriate. While recognizing that investors may want to minimize their risks in buying a loan, the Committee finds that these practices can abuse the taxpayer consent process. It is doubtful that a taxpayer is aware that by not dating the form, it could be used months or years after the date it is executed. Taxpayers may be unaware that a blank consent form which does not designate a recipient can be used for purposes other than those related to the transaction under which the request for consent arose.

In addition, the IRS does not have the resources to verify that the return information was used solely for the stated purpose. The IRS estimates that it receives annually more than 800,000 requests from taxpayers directing that their returns or return information be sent to a third party. Examples of third party entities to which the IRS provides information include financial institutions (including the mortgage banking industry), colleges and universities, and Federal, State, and local governmental entities.

The Committee believes that to preserve the integrity of the consent process, a penalty must be placed on the third party soliciting a taxpayer to sign an undated or otherwise incomplete consent. Consistent with a taxpayer's reasonable expectation of privacy, the Committee believes that limitations should be placed on the use of returns and return information obtained by consent.

EXPLANATION OF PROVISION

The provision renders invalid a consent that does not designate a recipient or is not dated at the time of execution. The person submitting the consent to the IRS is required to verify under penalties of perjury that the form was complete and dated at the time it was signed by the taxpayer. Inspection or disclosure of a return or return information pursuant to an invalid consent is unauthorized under section 6103. Thus, a person making such unauthorized disclosure or inspection could be liable for civil damages under section

[66] Sec. 7206(1).

7431, and criminal penalties under section 7213 or 7213A for willful unauthorized disclosure or inspection. It is not intended to validate consents that do not otherwise comply with the Treasury regulations. For example, a consent that does not contain tax years or type of tax at the time of execution is not valid, and this provision does not authorize disclosures pursuant to such consents.

The provision requires the consent form prescribed by the IRS to contain a warning, prominently displayed, informing the taxpayer that he or she should not sign the form unless it is complete. The provision requires the consent form to state that if the taxpayer believes there is an attempt to coerce him to sign an incomplete or blank form, the taxpayer should report the matter to the Treasury Inspector General for Tax Administration. The telephone number and address for the Treasury Inspector General for Tax Administration must be included on the form. Under the provision, all third parties receiving returns and return information by consent are required to: (1) ensure that the information received will be kept confidential; (2) use the information only for the purpose for which it was requested; and (3) not further disclose the information except to accomplish that purpose, unless a separate consent from the taxpayer is obtained.

The Treasury Inspector General for Tax Administration is required to submit a report to Congress on compliance with the designation and certification requirements no later than 18 months after the date of enactment. Such report must evaluate (on the basis of random sampling) whether the provision is achieving its purpose, whether requesters and submitters are continuing to evade the purpose of the provision, whether the sanctions are adequate, and such recommendations as considered necessary or appropriate to better achieve the purposes of the provision.

EFFECTIVE DATE

The provision applies to requests and consents made after 3 months after the date of enactment.

G. NOTICE TO TAXPAYER CONCERNING ADMINISTRATIVE DETERMINATION OF BROWSING; ANNUAL REPORT

(Sec. 407 of the bill and secs. 6103(p) and 7431 of the Code)

PRESENT LAW

Present law requires the IRS to notify a taxpayer that an unlawful disclosure or inspection of the taxpayer's return or return information has occurred when the offender has been charged by criminal indictment or information.[67] If the offender is not so charged, present law does not require the IRS to give notice to the taxpayer, even though the Treasury Inspector General for Tax Administration has concluded that an inspection or disclosure in violation of section 6103 has occurred.

The IRS is required under present law to provide, for disclosure to the public, an annual report to the Joint Committee on Taxation regarding authorized disclosures of returns and return information.[68] The IRS is not required to submit a report to Congress on

[67] Sec. 7431(e).
[68] See sec. 6103(p)(3)(C).

unauthorized disclosures or inspections of returns and return information.

REASONS FOR CHANGE

Currently, the IRS is not required to notify a taxpayer that an unlawful disclosure or inspection of the taxpayer's return or return information has occurred until the offender has been charged by criminal indictment or information.[69] The Treasury Inspector General for Tax Administration investigates and substantiates more unlawful access (browsing) and disclosure cases than are accepted for prosecution by U.S. Attorneys.[70] The staff of the Joint Committee on Taxation has reported that the U.S. Attorneys declined to prosecute more than 80 percent of the cases referred.[71]

Notwithstanding the lack of a criminal prosecution, the Committee believes that the IRS should make taxpayers aware that their returns or return information has been unlawfully accessed or disclosed. Thus, the IRS should notify the taxpayer at the time Treasury Inspector General for Tax Administration administratively determines that returns and return information have been unlawfully accessed or disclosed.

The Committee also believes that the IRS should provide as part of its public annual report to the Joint Committee on Taxation information on unauthorized disclosures or inspections of return and return information. The Committee believes such information will allow review of the enforcement efforts in this area and the extent to which taxpayer privacy is being protected.

EXPLANATION OF PROVISION

Under the bill, the IRS is required to notify a taxpayer at the point the Treasury Inspector General for Tax Administration determines that a taxpayer's return or return information has been disclosed or inspected without authorization. The bill further requires the IRS to provide information on unauthorized disclosures or inspections of return and return information in its public annual report to the Joint Committee on Taxation.

EFFECTIVE DATE

The provision is effective upon date of enactment as it relates to notifying the taxpayer of determinations of an unlawful disclosure or inspection. As to the annual report requirement, the provision would be effective for calendar years ending after the date of enactment.

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[69] Sec. 7431(e).

[70] See Joint Committee on Taxation, Study of Present-Law Taxpayer Confidentiality and Disclosure Provisions as Required by Section 3802 of the Internal Revenue Service Restructuring and Reform Act of 1998, Volume 1: Study of General Disclosure Provisions (JCS–1–00) January 28, 2000 at 175–176.

[71] Id.

H. Expanded Disclosure in Emergency Circumstances

(Sec. 408 of the bill and sec. 6103(i) of the Code)

PRESENT LAW

The Code permits the IRS to disclose return information to the extent necessary to apprise Federal or State law enforcement officials of circumstances involving an imminent danger of death or physical injury.

REASONS FOR CHANGE

The Committee believes that expanding this provision to permit disclosure to local law enforcement authorities will permit more rapid response to these situations.

EXPLANATION OF PROVISION

The bill expands this present law to permit disclosure to local law enforcement authorities.

EFFECTIVE DATE

The provision is effective on the date of enactment.

I. Disclosure of Taxpayer Identity for Tax Refund Purposes

(Sec. 409 of the bill and sec. 6103(m) of the Code)

PRESENT LAW

When the IRS is unable to find a taxpayer due a refund, present law provides that the IRS may use "the press or other media" to notify the taxpayer of the refund.[72] Section 6103(m) allows the IRS to give the press taxpayer identity information for this purpose.[73]

The IRS believes that the current statutory framework of "press and other media" does not permit disclosures via the Internet. The legislative history of the present-law provision does not address the meaning of "press and other media." At the time of the statute's enactment in 1976, the press (newspapers and periodicals) and other traditional media were the only means available for the IRS to distribute undelivered refund information to the public. Thus, the IRS interprets the term "other media" to exclude the Internet.

REASONS FOR CHANGE

The National Taxpayer Advocate noted that "[e]very year many taxpayers move, do not give the IRS their new address, and thousands of refund checks are returned by the post office because they are undeliverable."[74] In November 1999, the IRS announced that the U.S. Postal Service returned 102,840 more refund checks as un-

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[72] Sec. 6103(m)(1). This section provides: "The Secretary may disclose taxpayer identity information to the press or other media for purposes of notifying persons entitled to tax refunds when the Secretary, after reasonable effort and lapse of time, has been unable to locate such persons."

[73] Sec. 6103(m)(1), and (b)(6) (definition of "taxpayer identity").

[74] Internal Revenue Service, Publication 2104, FY 1999: National Taxpayer Advocate's Annual Report to Congress, at IV–30 (December 1999).

deliverable.[75] These checks totaled $72 million, averaging almost $700 per check.[76]

Based on the National Taxpayer Advocate's report, it is the understanding of the Committee that the current method of notification, by newspaper, is ineffective.[77] The Committee believes that the IRS should be able to use any method of mass communication, including the Internet, to reach a taxpayer who is due a refund.

EXPLANATION OF PROVISION

The provision allows the IRS to use any means of "mass communication," including the Internet, to notify the taxpayer of an undelivered refund.

EFFECTIVE DATE

The provision is effective upon date of enactment.

J. Disclosure to State Officials of Proposed Actions Related to Section 501(c)(3) Organizations

(Sec. 410 of the bill and secs. 6103 and 6104(c) of the Code)

PRESENT LAW

In the case of organizations that are described in section 501(c)(3) and exempt from tax under section 501(a) or that have applied for exemption as an organization so described, present law (sec. 6104(c)) requires the Secretary to notify the appropriate State officer of (1) a refusal to recognize such organization as an organization described in section 501(c)(3), (2) a revocation of a section 501(c)(3) organization's tax-exempt status, and (3) the mailing of a notice of deficiency for any tax imposed under section 507, chapter 41, or chapter 42.[78] In addition, at the request of such appropriate State officer, the Secretary is required to make available for inspection and copying, such returns, filed statements, records, reports, and other information relating to the above-described disclosures, as are relevant to any State law determination. An appropriate State officer is the State attorney general, State tax officer, or any State official charged with overseeing organizations of the type described in section 501(c)(3).

In general, return and return information (as such terms are defined in section 6103(b)) is confidential (sec. 6103(a)) and may not be disclosed or inspected unless expressly provided by law. Present law requires the Secretary to keep records of disclosures and requests for inspection (sec. 6103(p)(3)) and requires that persons authorized to receive return and return information maintain various safeguards to protect such information against unauthorized disclosure (sec. 6103(p)(4)). Willful unauthorized disclosure or inspection

[75] Internal Revenue Service, Information Release IR–999–91 (November 9, 1999).

[76] Id.

[77] Internal Revenue Service, Publication 2104, FY 1999: National Taxpayer Advocate's Annual Report to Congress, at IV–31 (December 1999).

[78] The applicable taxes include the termination tax on private foundations; taxes on public charities for certain excess lobbying expenses; taxes on a private foundation's net investment income, self-dealing activities, undistributed income, excess business holdings, investments that jeopardize charitable purposes, and taxable expenditures (some of these taxes also apply to certain non-exempt trusts); taxes on the political expenditures and excess benefit transactions of section 501(c)(3) organizations; and certain taxes on black lung benefit trusts and foreign organizations.

of return or return information is subject to a fine and/or imprisonment (secs. 7213 and 7213A). The knowing or negligent unauthorized inspection or disclosure of returns or return information gives the taxpayer a right to bring a civil suit (sec. 7431). Such present-law protections against unauthorized disclosure or inspection of return and return information do not apply to the disclosures or inspections, described above, that are authorized by section 6104(c).

REASONS FOR CHANGE

The Committee believes that State officials that are charged with oversight of organizations described in section 501(c)(3) have an important and legitimate interest in receiving certain information about such organizations before the IRS has made a final determination with respect to an organization's tax-exempt status or liability for tax. By providing State officials with earlier access to information about the activities of section 501(c)(3) organizations, State officials will be able to monitor such organizations more effectively and better protect the public's interest in assuring that charitable assets are used for charitable purposes. In addition, the Committee believes that permitting the IRS to share information about section 501(c)(3) organizations with State officials, when doing so will facilitate the resolution of Federal and State issues, will significantly improve oversight of charitable organizations. The Committee stresses the importance of maintaining the confidentially of taxpayer return and return information and believes it is important to extend existing protections against unauthorized disclosure or inspection of return and return information to disclosures made or inspections allowed by the Secretary of return and return information regarding section 501(c)(3) organizations.

EXPLANATION OF PROVISION

The provision provides that upon written request by an appropriate State officer, the Secretary may disclose: (1) a notice of proposed refusal to recognize an organization as a section 501(c)(3) organization, (2) a notice of proposed revocation of tax-exemption of a section 501(c)(3) organization, (3) the issuance of a proposed deficiency of tax imposed under section 507, chapter 41, or chapter 42, (4) the names and taxpayer identification numbers of organizations that have applied for recognition as section 501(c)(3) organizations, and (5) return and return information of organizations[79] with respect to which information has been disclosed under (1) through (4) above. Disclosure or inspection is permitted for the purpose of, and only to the extent necessary in, the administration of State laws regulating section 501(c)(3) organizations, such as laws regulating tax-exempt status, charitable trusts, charitable solicitation, and fraud. Disclosure or inspection may be made only to or by designated representatives of the appropriate State officer, which includes officers, employees, agents, and contractors of the appropriate State officer. The Secretary also may disclose or open to inspection the return and return information of an organization that is recognized as tax-exempt under section 501(c)(3), or that has applied for such recognition, to an appropriate State officer if the Secretary determines that disclosure or inspection may facilitate the

[79] Such information also may be open to inspection by an appropriate State officer.

resolution of Federal and State issues relating to the organization. Appropriate State officer means the State attorney general or the head of any State agency, body, or commission that is charged under the laws of such State with responsibility for overseeing organizations of the type described in section 501(c)(3).

In addition, the provision provides that return and return information disclosed under section 6104(c) may be disclosed in civil administrative and judicial proceedings pertaining to the enforcement of State laws regulating section 501(c)(3) organizations in a manner prescribed by the Secretary. Returns and return information shall not be disclosed under section 6104(c), or in such an administrative or judicial proceeding, to the extent that the Secretary determines that such disclosure would seriously impair Federal tax administration. The provision makes disclosures of returns and return information under section 6104(c) subject to many of the provisions of section 6103, including that such information remain confidential (sec. 6103(a)(2)), that the Secretary maintain a permanent system of records of requests for disclosure (sec. 6103(p)(3)), and that the appropriate State officer maintain various safeguards that protect against unauthorized disclosure (sec. 6103(p)(4)). The provision provides that the willful unauthorized disclosure of return or return information described in section 6104(c) is a felony subject to a fine of up to $5,000 and/or imprisonment of up to five years (sec. 7213(a)(2)), the willful unauthorized inspection of return or return information described in section 6104(c) is subject to a fine of up to $1,000 and/or imprisonment of up to one year (sec. 7213A), and provides the taxpayer the right to bring a civil action for damages in the case of knowing or negligent unauthorized disclosure or inspection of such information (sec. 7431(a)(2)).

EFFECTIVE DATE

The provision is effective for requests or disclosures made after the date of enactment.

TITLE V—MISCELLANEOUS PROVISIONS

A. Clarification of Definition of Church Tax Inquiry

(Sec. 501 of the bill and sec. 7611 of the Code)

PRESENT LAW

Under present law, the IRS may begin a church tax inquiry only if an appropriate high-level Treasury official reasonably believes, on the basis of the facts and circumstances recorded in writing, that an organization (1) may not qualify for tax exemption as a church, (2) may be carrying on an unrelated trade or business, or (3) otherwise may be engaged in taxable activities.[80] A church tax inquiry is defined as any inquiry to a church (other than an examination) that serves as a basis for determining whether the organization qualified for tax exemption as a church or whether it is carrying on an unrelated trade or business or otherwise is engaged in taxable activities. An inquiry is considered to commence when the IRS requests information or materials from a church or a type con-

[80] Sec. 7611. Prior to the year 2000 IRS restructuring, the lowest level official who could initiate a church tax inquiry was an IRS Regional Commissioner.

tained in church records, other than routine requests for information or inquiries regarding matters that do not primarily concern the tax status or liability of the church itself.

REASONS FOR CHANGE

The Committee believes that the present-law church tax inquiry procedures provide important safeguards against the IRS engaging in unnecessary and intrusive examinations of churches. However, the church tax inquiry procedures also have the effect of hampering IRS efforts to educate churches with respect to actions that are not permissible under section 501(c)(3). The Committee believes that a clarification of the scope of the church tax inquiry procedures to make it clear that the IRS may undertake educational outreach efforts with respect to specific churches (e.g., initiating meetings with representatives of a particular church to discuss the rules that apply to such church) will improve compliance with the law by churches.

EXPLANATION OF PROVISION

The provision clarifies that the present-law church tax inquiry procedures do not apply to contacts made by the IRS for the purpose of educating churches with respect to the law governing tax-exempt organizations. For example, the provision clarifies that the IRS does not violate the church tax inquiry procedures when written materials are provided to a church or churches for the purpose of educating such church or churches with respect to the types of activities that are not permissible under section 501(c)(3).

EFFECTIVE DATE

The provision is effective on the date of enactment.

B. Extension of Declaratory Judgment Procedures to Non–501(c)(3) Tax-Exempt Organizations

(Sec. 502 of the bill and sec. 7428 of the Code)

PRESENT LAW

In order for an organization to be granted tax exemption as a charitable entity described in section 501(c)(3), it generally must file an application for recognition of exemption with the IRS and receive a favorable determination of its status. Similarly, for most organizations, a charitable organization's eligibility to receive tax-deductible contributions is dependent upon its receipt of a favorable determination from the IRS. In general, a section 501(c)(3) organization can rely on a determination letter or ruling from the IRS regarding its tax-exempt status, unless there is a material change in its character, purposes, or methods of operation. In cases in which an organization violates one or more of the requirements for tax exemption under section 501(c)(3), the IRS is authorized to revoke an organization's tax exemption, notwithstanding an earlier favorable determination.

In situations in which the IRS denies an organization's application for recognition of exemption under section 501(c)(3) or fails to act on such application, or in which the IRS informs a section 501(c)(3) organization that it is considering revoking or adversely

modifying its tax-exempt status, present law authorizes the organization to seek a declaratory judgment regarding its tax status (sec. 7428). Section 7428 provides a remedy in the case of a dispute involving a determination by the IRS with respect to: (1) the initial qualification or continuing qualification of an organization as a charitable organization for tax exemption purposes or for charitable contribution deduction purposes; (2) the initial classification or continuing classification of an organization as a private foundation; (3) the initial classification or continuing classification of an organization as a private operating foundation; or (4) the failure of the IRS to make a determination with respect to (1), (2), or (3). A "determination" in this context generally means a final decision by the IRS affecting the tax qualification of a charitable organization, although it also can include a proposed revocation of an organization's tax-exempt status or public charity classification. Section 7428 vests jurisdiction over controversies involving such a determination in the U.S. District Court for the District of Columbia, the U.S. Court of Federal Claims, and the U.S. Tax Court.

Prior to utilizing the declaratory judgment procedure, an organization must have exhausted all administrative remedies available to it within the IRS. An organization is deemed to have exhausted its administrative remedies at the expiration of 270 days after the date on which the request for a determination was made if the organization has taken, in a timely manner, all reasonable steps to secure such determination.

If an organization (other than a section 501(c)(3) organization) files an application for recognition of exemption and receives a favorable determination from the IRS, the determination of tax-exempt status is usually effective as of the date of formation of the organization if its purposes and activities during the period prior to the date of the determination letter were consistent with the requirements for exemption. However, if the organization files an application for recognition of exemption and later receives an adverse determination from the IRS, the IRS may assert that the organization is subject to tax on some or all of its income for open taxable years. In addition, as with charitable organizations, the IRS may revoke or modify an earlier favorable determination regarding an organization's tax-exempt status.

Under present law, a non-charity (i.e., an organization not described in section 501(c)(3)) may not seek a declaratory judgment with respect to an IRS determination regarding its tax-exempt status. The only remedies available to such an organization are to petition the U.S. Tax Court for relief following the issuance of a notice of deficiency or to pay any tax owed and sue for refund in federal district court or the U.S. Court of Federal Claims.

REASONS FOR CHANGE

The Committee believes that it is important to provide certainty for organizations that have sought a determination of their tax-exempt status. Thus, the Committee finds it appropriate to extend the present-law declaratory judgment procedures to all organizations that apply for tax-exempt status as organizations described in section 501(c).

EXPLANATION OF PROVISION

The bill extends declaratory judgment procedures similar to those currently available only to charities under section 7428 to other section 501(c) determinations. The bill limits jurisdiction over controversies involving such determinations to the United States Tax Court.[81]

EFFECTIVE DATE

The extension of the declaratory judgment procedures to organizations other than section 501(c)(3) organizations is effective for pleadings with respect to determinations made after the date of enactment.

C. Employee Misconduct Report To Include Summary of Complaints by Category

(Sec. 503 of the bill and sec. 7803 of the Code)

PRESENT LAW

The Treasury Inspector General for Tax Administration is subject to the semi-annual reporting requirements set forth in section 5 of the Inspector General Act of 1978. Under present law, reports are made to the Committees on Government Reform and Oversight and Ways and Means in the House of Representatives and the Committees on Governmental Affairs and Finance in the Senate. Each semi-annual report is required to include information regarding the source, nature and status of taxpayer complaints and allegations of serious misconduct by IRS employees received by the IRS or by the Treasury Inspector General for Tax Administration.

REASONS FOR CHANGE

The Committee believes that the information available to the Congress and the public under present law would be enhanced by additional reporting of the types of allegations made with respect to IRS employee misconduct and the number of complaints made with respect to the most common types of allegations.

EXPLANATION OF PROVISION

The provision modifies the semi-annual reporting requirement for the Treasury Inspector General for Tax Administration to require that the reporting with respect to allegations of serious IRS employee misconduct include a summary (by category) of the 10 most common complaints made and the number of such common complaints (by category).

EFFECTIVE DATE

The provision is effective for reporting periods ending after the date of enactment.

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[81] This limitation currently applies to declaratory judgments relating to tax qualification for certain employee retirement plans (sec. 7476).

D. Annual Report on Awards of Costs and Certain Fees in Administrative and Court Proceedings

(Sec. 504 of the bill)

PRESENT LAW

The Code requires that the IRS pay a taxpayer's reasonable administrative and litigation expenses under specified circumstances.[82] Among other requirements, the IRS is not required to pay these amounts if the IRS can demonstrate that its position was substantially justified.

REASONS FOR CHANGE

The fact that the IRS paid these expenses may be an indication that its position was not substantially justified, as well as an indication that the IRS may be inappropriately pursuing an issue. The lack of published statistics and analytical information hinders the Congress and taxpayers from assessing the extent to which the IRS may be inappropriately pursuing an issue and from pursuing potential remedies to alleviate this problem.

EXPLANATION OF PROVISION

The provision requires TIGTA to publish annually statistics on the number of payments (whether as a result of a settlement or judicial decision) made pursuant to section 7430 and the amount of each such payment. TIGTA also is required to publish an analysis of the administrative issues that gave rise to the necessity of making these payments and the changes (if any) that will be implemented by the IRS as a result of TIGTA's analysis, as well as any other changes that TIGTA recommends on the basis of its analysis. This would permit the Congress to assess the extent to which the IRS may be inappropriately pursuing an issue and to pursue potential remedies to alleviate this problem.

EFFECTIVE DATE

The first annual report is required for fiscal year 2002. The reports must be published no later than three months following the close of the fiscal year.

E. Annual Report on Abatements of Penalties

(Sec. 505 of the bill)

PRESENT LAW

Some penalties in the Code are imposed automatically (such as for failure to file or failure to pay), while others are imposed in response to the specific factual situation presented on a tax return (such as negligence). In addition, some penalties can be abated automatically, while others are abated in response to a specific factual presentation made by the taxpayer. In general, most penalties can be abated for reasonable cause, but the details of what constitutes reasonable cause can vary somewhat from penalty to pen-

[82] Sec. 7430.

alty as a reflection of the differences in the types of behaviors that the different penalties are designed to deter.

REASONS FOR CHANGE

Both the manner in which penalties are imposed and the manner in which they are abated can present issues for consideration with respect to the uniformity of penalty administration. The system of penalty administration has a number of goals and it is not always possible to reconcile them completely. One goal is uniformity of application of penalties (both in their original imposition and in their abatement) for similarly situated taxpayers. Another goal is to reflect the individual circumstances surrounding the failure for which the taxpayer is being penalized. Another goal is to provide rapid resolution for taxpayers of disputes with the IRS, including disputes over penalties. Accomplishing this goal entails giving "front line" IRS employees the authority to resolve disputes (within certain parameters) on their own authority.

One challenge in providing proper tax administration is balancing all of these goals so that one does not predominate at the expense of the others. For example, one theoretical way to maximize uniformity might be to centralize the administration of penalties in one office. This would, however, make it more difficult for taxpayers to reach a rapid resolution of their disputes with the IRS, because it could be more difficult for taxpayers to deal with a centralized penalty administration structure than with the current locally-based structure. It could also present administrative difficulties, such as divorcing decisions concerning penalties from decisions concerning the underlying liability, when in reality the two may be inextricably interconnected. On the other hand, the maximization of the goal of reflecting individual circumstances could adversely affect both uniformity and the rapid resolution of disputes. Similarly, maximizing the rapid resolution of disputes could adversely affect both uniformity and individualization.

Balancing these goals necessarily means that any one of them will not be maximized. Accordingly, a balanced approach means that some compromises will have to be made to permit the most appropriate balancing of these goals.

EXPLANATION OF PROVISION

The bill requires TIGTA to report to the Congress annually on penalty abatements and the reasons and criteria for abatements. Better statistical information will enable more rigorous analysis of the systems to occur, which will provide the opportunity for problems to surface and be dealt with in a systematic manner.

EFFECTIVE DATE

The first annual report is required for fiscal year 2002. The reports must be provided to the Congress no later than six months following the close of the fiscal year.

F. Better Means of Communicating With Taxpayers

(Sec. 506 of the bill)

PRESENT LAW

The IRS generally communicates with taxpayers (or their designated representatives) in one of three methods: by mail, by telephone, or in person. Many telephone or in person contacts are initiated by the taxpayer, whereas many mail contacts are initiated by the IRS.

REASONS FOR CHANGE

Many of the difficulties taxpayers encounter in the course of communicating with the IRS are inherent to mail communications: documents missing in the mail, difficulties in forwarding documents, maintaining updated address records, etc. The Committee believes that it will be beneficial to receive an evaluation of whether technological advances, such as e-mail and the fax, could permit the utilization of alternate means of communicating with taxpayers, which in turn could eliminate some of the difficulties with the present system.

EXPLANATION OF PROVISION

The bill requires TIGTA to issue a report to the Congress evaluating whether technological advances, such as e-mail and the fax, permit the utilization of alternate means of communicating with taxpayers to eliminate some of the difficulties with the present system.

EFFECTIVE DATE

The report must be issued no later than 18 months after the date of enactment.

G. Information Regarding Statute of Limitations

(Sec. 507 of the bill)

PRESENT LAW

In general, a taxpayer must file a refund claim within three years of the filing of the return or within two years of the payment of the tax, whichever period expires later (if no return is filed, the two-year limit applies).[83] A refund claim that is not filed within these time periods is rejected as untimely.

A special rule applies during periods of disability. Equitable tolling of the statute of limitations for refund claims of an individual taxpayer applies during any period in which an individual is unable to manage his or her financial affairs by reason of a medically determinable physical or mental impairment that can be expected to result in death or to last for a continuous period of not less than 12 months. Equitable tolling does not apply during periods in which the taxpayer's spouse or another person is authorized to act on the taxpayer's behalf in financial matters.

[83] Sec. 6511(a).

There is no requirement that IRS publications contain information that both describes this statute of limitations provision and explains the consequences of failing to file within the time period prescribed by the statute of limitations.

REASONS FOR CHANGE

Some taxpayers who are due refunds fail to file tax returns by the due date. Several years later they realize that they owe additional taxes to the IRS for that later year and attempt to offset the amount that they owe against the refund that they were due for the earlier year. They are unable to do so, however, if their claim for the refund is filed beyond the statutorily specified deadline. The Committee recognizes that in general statutes of limitations promote important policy goals of repose and certainty. The Committee also believes that it is important that taxpayers be adequately informed of the operation of these provisions so that they are not inadvertently disadvantaged by consequences that they did not foresee.

EXPLANATION OF PROVISION

The provision requires the IRS to revise Publication 1 ("Your Rights as a Taxpayer") by adding an explanation of the consequences of failing to file within the time period prescribed by the statute of limitations to the section on refunds that describes the statute of limitations. The provision also requires the IRS to revise the instructions that accompany all of the Form 1040 packages (including 1040A and 1040EZ) in a similar manner to add a description of this statute of limitations and an explanation of the consequences of failing to file within the time period prescribed by the statute of limitations.

EFFECTIVE DATE

The revisions to Publication 1 are required to be made as soon as practicable, but not later than 180 days after the date of enactment. The revisions to the Form 1040 instructional packages are required to be made for instructions for taxable years beginning after December 31, 2001.

H. AMENDMENT TO TREASURY AUCTION REFORMS

(Sec. 508 of the bill and sec. 202 of the Government Securities Act Amendments of 1993)

PRESENT LAW

Member of the Treasury Borrowing Advisory Committee are prohibited from disclosing anything relating to the securities to be auctioned in a midquarter refunding by the Secretary until the Secretary makes a public announcement of the refunding.[84]

REASONS FOR CHANGE

The Committee believes that permitting disclosure upon the release by the Secretary of the minutes of the meeting accomplishes

[84] Sec. 202(c)(4)(B) of the Government Securities Act Amendments of 1993.

the goals of the present-law restrictions without needlessly hindering the members of the advisory committee.

EXPLANATION OF PROVISION

The bill permits earlier disclosure upon the release by the Secretary of the minutes of the meeting.

EFFECTIVE DATE

The provision applies to meetings held after the date of enactment.

I. ENROLLED AGENTS

(Sec. 509 of the bill and new sec. 7527 of the Code)

PRESENT LAW

Treasury Department Circular No. 230 provides rules relating to practice before the IRS by attorneys, certified public accountants, enrolled agents, enrolled actuaries, and others.

REASONS FOR CHANGE

The Committee believes that individuals who meet the regulatory requirements established by the Secretary should be able to use the specified credentials or designation in any State or Federal jurisdiction.

EXPLANATION OF PROVISION

The bill adds a new section to the Code permitting the Secretary to prescribe regulations to regulate the conduct of enrolled agents in regard to their practice before the IRS and to permit enrolled agents meeting the Secretary's qualifications to use the credentials or designation "enrolled agent", "EA", or "E.A.".

EFFECTIVE DATE

The provision is effective on the date of enactment.

J. ALLOW THE FINANCIAL MANAGEMENT SERVICE TO RETAIN TRANSACTION FEES FROM LEVIED AMOUNTS

(Sec. 510 of the bill)

PRESENT LAW

To facilitate the collection of tax, the IRS can generally levy upon all property and rights to property of a taxpayer (sec. 6331). With respect to specified types of recurring payments,[85] the IRS may impose a continuous levy of up to 15 percent of each payment, which generally continues in effect until the liability is paid (sec. 6331(h)). Continuous levies imposed by the IRS on specified Federal payments are administered by the Financial Management Service (FMS) of the Department of the Treasury. FMS is generally responsible for making most non-defense related Federal payments. FMS

[85] The payments to which this provision applies are (1) Federal payments (except payments for which eligibility is based on the income or assets of the taxpayer), (2) unemployment benefits, (3) workmen's compensation, (4) wages, (5) certain public assistance payments, and (6) annuities or pensions under Railroad Retirement or Railroad Unemployment.

is required to charge the IRS for the costs of developing and operating this continuous levy program. The IRS pays these FMS charges out of its appropriations.

REASONS FOR CHANGE

The Committee believes that altering the bookkeeping structure of these costs, as was recommended in the President's budget proposal, will provide for cost savings to the government.

EXPLANATION OF PROVISION

The bill allows FMS to retain a portion of the levied funds as payment of these FMS fees. The amount credited to the taxpayer's account would not, however, be reduced by this fee.

EFFECTIVE DATE

The provision is effective on the date of enactment.

K. Capital Gains Treatment To Apply to Outright Sales of Timber by Landowner

(Sec. 511 of the bill and sec. 631(b) of the Code)

PRESENT LAW

Under present law, a taxpayer disposing of timber held for more than one year is eligible for capital gains treatment in three situations. First, if the taxpayer sells or exchanges timber that is a capital asset (sec. 1221) or property used in the trade or business (sec. 1231), the gain generally is long-term capital gain; however, if the timber is held for sale to customers in the taxpayer's business, the gain will be ordinary income. Second, if the taxpayer disposes of the timber with a retained economic interest, the gain is eligible for capital gain treatment (sec. 631(b)). Third, if the taxpayer cuts standing timber, the taxpayer may elect to treat the cutting as a sale or exchange eligible for capital gains treatment (sec. 631(a)).

REASONS FOR CHANGE

The Committee believes that the requirement that the owner of timber retain an economic interest in the timber in order to obtain capital gain treatment under section 631(b) results in poor timber management because the buyer, when cutting and removing timber, has no incentive to protect young or other uncut trees because the buyer only pays for the timber that is cut and removed. The Committee also believes that present law results in unnecessary disputes between taxpayers and the IRS regarding whether a taxpayer is a dealer in timber. Therefore, the Committee bill eliminates this requirement and provides for capital gain treatment under section 631(b) in the case of outright sales of timber.

EXPLANATION OF PROVISION

Under the provision, in the case of a sale of timber by the owner of the land from which the timber is cut, the requirement that a taxpayer retain an economic interest in the timber in order to treat gains as capital gain under section 631(b) does not apply. Outright sales of timber by the landowner will qualify for capital gains treat-

ment in the same manner as sales with a retained economic interest qualify under present law, except that usual tax rules relating to the timing of the income from the sale of the timber will apply (rather than the special rule of section 631(b) treating the disposal as occurring on the date the timber is cut).

EFFECTIVE DATE

The provision is effective for sales of timber after the date of enactment.

TITLE VI—LOW-INCOME TAXPAYER CLINICS

(Sec. 601 of the bill and sec. 7526 of the Code)

PRESENT LAW

The Code provides that the Secretary is authorized to provide up to $6 million per year in matching grants to certain low-income taxpayer clinics.

REASONS FOR CHANGE

The Committee believes that low-income taxpayer clinics provide important services to taxpayers and that, accordingly, the amount authorized to be appropriated for matching grants to them should be increased.

The Committee believes that the Secretary should be authorized to use mass communications, referrals, and other means to promote the benefits and encourage the use of low-income taxpayer clinics. The Committee believes that low-income taxpayer clinics contribute to compliance with the Code by providing representation to taxpayers who might otherwise be uncertain about their rights and obligations under the Code. The Committee also believes that the primary mission of low-income taxpayer clinics funded by these matching grants should not be to provide routine tax return preparation (except that done in connection with a controversy with the IRS).

EXPLANATION OF PROVISION

The provision increases this authorization to $9 million for 2002, to $12 million for 2003, and to $15 million for 2004 and thereafter. The provision amends the definition of low-income taxpayer clinics by excluding from eligibility for grants clinics that provide routine tax return preparation; this exclusion does not apply to return preparation done in connection with a controversy with the IRS. The provision also authorizes the IRS to promote the benefits and encourage the use of low-income taxpayer clinics.

EFFECTIVE DATE

The provision is effective on the date of enactment.

TITLE VII—REPORTING REQUIREMENTS OF STATE AND LOCAL POLITICAL ORGANIZATIONS

(Secs. 701–703 of the bill and secs. 527, 6012, 6033, and 7207 of the Code)

PRESENT LAW

In general

Under present law, section 527 provides a limited tax-exempt status to "political organizations," meaning a party, committee, association, fund, account, or other organization (whether or not incorporated) organized and operated primarily for the purpose of directly or indirectly accepting contributions or making expenditures (or both) for an "exempt function." These organizations generally are exempt from Federal income tax on contributions they receive, but are subject to tax on their net investment income and certain other income at the highest corporate income tax rate ("political organization taxable income"). Donors are exempt from gift tax on their contributions to such organizations. For purposes of section 527, the term "exempt function" means: the function of influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any Federal, State, or local public office or office in a political organization, or the election of Presidential or Vice-Presidential electors, whether or not such individual or electors are selected, nominated, elected, or appointed.

Notice of section 527 organization

An organization is not treated as a section 527 organization unless it has given notice to the Secretary of the Treasury, electronically and in writing, that it is a section 527 organization. The notice is not required (1) of any person required to report as a political committee under the Federal Election Campaign Act of 1971, (2) by organizations that reasonably anticipate that their annual gross receipts will always be less than $25,000, and (3) organizations described in section 501(c). All other organizations, including State and local candidate committees, are required to file the notice.

The notice is required to be transmitted no later than 24 hours after the date on which the organization is organized. The notice is required to include the following information: (1) the name and address of the organization and its electronic mailing address, (2) the purpose of the organization, (3) the names and addresses of the organization's officers, highly compensated employees, contact person, custodian of records, and members of the organization's Board of Directors, (4) the name and address of, and relationship to, any related entities, and (5) such other information as the Secretary may require.

The notice of status as a section 527 organization is required to be disclosed to the public by the IRS and by the organization. In addition, the Secretary of the Treasury is required to make publicly available on the Internet and at the offices of the IRS a list of all political organizations that file a notice with the Secretary under section 527 and the name, address, electronic mailing address, custodian of records, and contact person for such organization. The IRS is required to make this information available within five busi-

ness days after the Secretary of the Treasury receives a notice from a section 527 organization.

An organization that fails to file the notice is not treated as a section 527 organization and its exempt function income is taken into account in determining taxable income.

Disclosure by political organizations of expenditures and contributors

A political organization that accepts a contribution or makes an expenditure for an exempt function during any calendar year is required to file with the Secretary of the Treasury certain reports. The following reports are required: either (1) in the case of a calendar year in which a regularly scheduled election is held, quarterly reports, a pre-election report, and a post-general election report and, in the case of any other calendar year, a report covering January 1 to June 30 and July 1 to December 31, or (2) monthly reports for the calendar year, except that, in lieu of the reports due for November and December of any year in which a regularly scheduled general election is held, a pre-general election report, a post-general election report, and a year end report are to be filed.

The reports are required to include the following information: (1) the amount of each expenditure made to a person if the aggregate amount of expenditures to such person during the calendar year equals or exceeds $500 and the name and address of the person (in the case of an individual, including the occupation and name of the employer of the individual); and (2) the name and address (in the case of an individual, including the occupation and name of employer of such individual) of all contributors that contributed an aggregate amount of $200 or more to the organization during the calendar year and the amount of the contribution.

The disclosure requirements do not apply (1) to any person required to report as a political committee under the Federal Election Campaign Act of 1971, (2) to any State or local committee of a political party or political committee of a State or local candidate, (3) to any organization that reasonably anticipates that it will not have gross receipts of $25,000 or more for any taxable year, (4) to any organization described in section 501(c), or (5) with respect to any expenditure that is an independent expenditure (as defined in section 301 of the Federal Election Campaign Act of 1971).

For purposes of the disclosure requirements, the term "election" means (1) a general, special, primary, or runoff election for a Federal office, (2) a convention or caucus of a political party that has authority to nominate a candidate for Federal office, (3) a primary election held for the selection of delegates to a national nominating convention of a political party, or (4) a primary election held for the expression of a preference for the nomination of individuals for election to the office of President.

The IRS is required to make available to the public any report filed by a political organization. In addition, the organization is required to make any such report available to the public. A penalty is imposed for failure to file a report or provide required information in the report.

Return requirements for section 527 organizations

Under present law, a section 527 organization that has political organization taxable income is required annually to file Form 1120–POL (Return of Organization Exempt from Income Tax). Section 527 organizations that do not have political organization taxable income but have gross receipts of $25,000 or more during the taxable year also are required to file an income tax return. The gross receipts requirement does not apply to political organizations that are subject to section 527 solely by reason of section 527(f)(1) (which provides for a tax on organizations exempt from tax under section 501(c) if such an organization makes an exempt function expenditure). The annual return must be made available to the public by the organization and by the IRS. In addition, section 527 organizations that are required to file Form 1120–POL also are required to file an annual information return, Form 990 (Return of Organization Exempt from Income Tax).

REASONS FOR CHANGE

The Committee believes that compliance with the political organization notification, reporting, and return requirements is in some cases needlessly burdensome, duplicative, or unnecessary. The Committee further believes that the Secretary should have the authority to waive certain taxes and penalties upon a showing of reasonable cause and not willful neglect.

EXPLANATION OF PROVISION

The provision provides that a political organization that is a political committee of a State or local candidate, or a local committee of a political party, as political party is defined by State law, is exempt from the requirement (sec. 527(i)) to provide notice to the Secretary of its formation and purpose. Such organizations already are exempt from the separate reporting requirement provided by section 527(j) to file regular reports with the Secretary detailing contribution and expenditure information.

The Committee intends that a political committee of a State or local candidate, or a local committee of a political party shall have the same meaning for purposes of both the notice (sec. 527(i)) and reporting (sec. 527(j)) requirements. A political committee of a State or local candidate means the principal committee a candidate establishes to conduct the candidate's campaign activities. A candidate or officeholder may establish or be associated with other political committees, but such committees would not necessarily be exempt from the notification (sec. 527(i)) or reporting (sec. 527(j)) requirements. For example, if a State candidate who already has established a principal committee, established a political organization to advocate on behalf of a ballot initiative, or for or against another candidate, such a committee would be required to submit an initial notification of its status as a political organization and to file regular reports. The Committee intends that a local committee of a political party is any local committee of a political party if such party is established or recognized under State or local law. Such committees may operate separately from a party organization, for example, for the benefit of candidates in a particular region, but to

be exempt from the notification or reporting requirements the committee must be established by the party, not by the candidates.

In addition, the provision exempts certain State or local political organizations from the requirement (sec. 527(j)) to file regular reports with the Secretary detailing contribution and expenditure information. To be exempt from such reporting requirements under the provision: (1) the organization must not engage in any exempt function activities other than to influence or attempt to influence the selection, nomination, election, or appointment of any individual to any State or local public office or office in a State or local political organization; (2) during the calendar year, the organization must be required to report under State or local law information regarding individual expenditures from and contributions to such organization (including information regarding the person who makes such contribution or receives such expenditure) that is substantially similar to the information that otherwise would be required to be reported; (3) the agency with which such information is filed must make the filed information public; (4) the organization filing the information must make the information available for public inspection in a manner similar to that required of reports filed with the IRS; and (5) no candidate for nomination or election to Federal elective office or individual holding such a Federal office can control or materially participate in the direction of the organization, or direct, in whole or in part, expenditures or fundraising activities of the organization. The Committee intends that State or local reporting requirements will be substantially similar to Federal reporting requirements if the State or local law requires regular reporting of itemized expenditures of $250 or more and itemized contributions of $500 or more. State or local law also must require information regarding the identity of contributors and identity of persons receiving expenditures that is substantially similar to Federal law. In addition, State or local law must penalize the failure to file the reporting information. In general, the Committee believes that most State reporting requirements presently are substantially similar to Federal reporting requirements. The Committee does not intend by this provision to encourage States to lessen the reporting requirements of political organizations.

Under the provision, a political organization is required to file an income tax return (Form 1120–POL) only if such organization has political organization taxable income for the taxable year. Thus, political organizations without political organization taxable income and with gross receipts of at least $25,000 for the taxable year would no longer be required to file an income tax return. The provision changes the present-law rule that an information return (Form 990) is required to be filed by organizations that are required to file an income tax return. Instead, under the provision, information returns are required to be filed by political organizations that have gross receipts of $25,000 or more for the taxable year with the following exceptions: (1) State or local political organizations that are exempt from the 527(j) reporting requirement, (2) State or local committees of a political party, or political committees of a State or local candidate, as defined by State law, (3) a caucus or association of State or local elected officials, (4) a national association of State or local officials, (5) a committee of a candidate for Federal office authorized by section 301(6) of the Fed-

eral Election campaign Act, and (6) a national committee of a political party (as defined in section 301(14) of the Federal Election Campaign Act).[86] In addition, under the provision, political organizations with political organization taxable income and gross receipts for the taxable year of less than $25,000 are no longer required to file an information return. Also, as under present law, the Secretary would have the discretion to waive the information return filing requirement.

The provision gives the Secretary the authority to waive all or any portion of the taxes imposed on an organization for failure to notify the Secretary of the organization's establishment or the penalties imposed for failure to file a report. Such waiver is subject to a showing by the organization that the failure was due to reasonable cause and not to willful neglect.

The provision further provides that the Secretary in consultation with the Federal Election Commission must publicize the effects of these changes and the interaction of the requirements to file a notification or report under section 527 and reports under the Federal Election Campaign Act of 1971.

Finally, the provision makes the following technical corrections. The provision clarifies that in computing taxable income for organizations that fail to notify the Secretary of their status as a political organization, all exempt function income, whether or not segregated for use for an exempt function, is taken into account. The provision also clarifies that penalties imposed for failure to report under section 527(j) will be assessed and collected in the same manner as penalties imposed on exempt organizations for failure to file returns (sec. 6652(c)). The provision applies the penalty for fraudulent returns, statements, or other documents (sec. 7207) to the notification (527(i)) and reporting (527(j)) requirements of political organizations. In addition, the provision eliminates the requirement that political organizations provide notice of their existence both in writing and electronically.

EFFECTIVE DATE

The technical corrections clarifying the treatment of unsegregated exempt function income and the treatment of penalties imposed under section 527(j) are effective for failures to notify or report on or after the date of enactment. The requirement that the Secretary publicize the effects of the provision is effective on the date of enactment. All other provisions are effective as of July 1, 2000.

III. VOTES OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statements are made concerning the votes of the Committee on Ways and Means in its consideration of the bill, H.R. 3991.

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[86] As under present law, the bill provides that organizations that are political organizations for a taxable year solely because of section 527(f)(1) (which provides for a tax on organizations exempt from tax under section 501(c) if such an organization makes an exempt function expenditure) are not required to file an information return.

MOTION TO REPORT THE BILL

The bill, H.R. 3991, as amended, was ordered favorably reported by a rollcall vote of 34 yeas to 6 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Thomas	X			Mr. Rangel	X		
Mr. Crane	X			Mr. Stark		X	
Mr. Shaw	X			Mr. Matsui		X	
Mrs. Johnson	X			Mr. Coyne	X		
Mr. Houghton	X			Mr. Levin	X		
Mr. Herger	X			Mr. Cardin	X		
Mr. McCrery	X			Mr. McDermott		X	
Mr. Camp	X			Mr. Kleczka	X		
Mr. Ramstad	X			Mr. Lewis (GA)		X	
Mr. Nussle	X			Mr. Neal	X		
Mr. Johnson	X			Mr. McNulty	X		
Ms. Dunn	X			Mr. Jefferson			
Mr. Collins	X			Mr. Tanner	X		
Mr. Portman	X			Mr. Becerra		X	
Mr. English	X			Mrs. Thurman	X		
Mr. Watkins	X			Mr. Doggett		X	
Mr. Hayworth	X			Mr. Pomeroy	X		
Mr. Weller	X						
Mr. Hulshof	X						
Mr. McInnis	X						
Mr. Lewis (KY)	X						
Mr. Foley	X						
Mr. Brady	X						
Mr. Ryan	X						

VOTES ON AMENDMENTS

A rollcall vote was conducted on the following amendment to the Chairman's amendment in the nature of a substitute.

An amendment by Mr. Doggett, which would strike Title VII of the bill and insert a new title relating to revisions to the Section 527 organization disclosure provisions, including modifications to reporting requirements for certain state and local political organizations, was defeated by a rollcall vote of 16 yeas to 22 nays. The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Thomas		X		Mr. Rangel	X		
Mr. Crane		X		Mr. Stark	X		
Mr. Shaw		X		Mr. Matsui	X		
Mrs. Johnson	X			Mr. Coyne	X		
Mr. Houghton		X		Mr. Levin	X		
Mr. Herger		X		Mr. Cardin	X		
Mr. McCrery		X		Mr. McDermott	X		
Mr. Camp		X		Mr. Kleczka	X		
Mr. Ramstad		X		Mr. Lewis (GA)	X		
Mr. Nussle				Mr. Neal	X		
Mr. Johnson		X		Mr. McNulty	X		
Ms. Dunn		X		Mr. Jefferson			
Mr. Collins		X		Mr. Tanner			
Mr. Portman		X		Mr. Becerra	X		
Mr. English		X		Mrs. Thurman	X		
Mr. Watkins		X		Mr. Doggett	X		
Mr. Hayworth		X		Mr. Pomeroy	X		
Mr. Weller		X					
Mr. Hulshof		X					
Mr. McInnis		X					
Mr. Lewis (KY)		X					

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Foley		X					
Mr. Brady		X					
Mr. Ryan		X					

An amendment by Mr. Doggett, which would add a new section relating to the disclosure of lobbying activities by certain organizations, was defeated by a rollcall vote of 16 yeas to 23 nays. The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Thomas		X		Mr. Rangel	X		
Mr. Crane		X		Mr. Stark	X		
Mr. Shaw		X		Mr. Matsui	X		
Mrs. Johnson		X		Mr. Coyne	X		
Mr. Houghton		X		Mr. Levin	X		
Mr. Herger		X		Mr. Cardin	X		
Mr. McCrery		X		Mr. McDermott	X		
Mr. Camp		X		Mr. Kleczka	X		
Mr. Ramstad		X		Mr. Lewis (GA)	X		
Mr. Nussle		X		Mr. Neal	X		
Mr. Johnson		X		Mr. McNulty	X		
Ms. Dunn		X		Mr. Jefferson			
Mr. Collins		X		Mr. Tanner	X		
Mr. Portman		X		Mr. Becerra	X		
Mr. English		X		Mrs. Thurman	X		
Mr. Watkins		X		Mr. Doggett	X		
Mr. Hayworth		X		Mr. Pomeroy	X		
Mr. Weller		X					
Mr. Hulshof		X					
Mr. McInnis		X					
Mr. Lewis (KY)		X					
Mr. Foley							
Mr. Brady		X					
Mr. Ryan		X					

IV. BUDGET EFFECTS OF THE BILL

A. Committee Estimate of Budgetary Effects

In compliance with clause 3(d)(2) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of the revenue provisions of the bill, H. R. 3991, as reported.

The bill is estimated to have the following effects on budget receipts for fiscal years 2002–2007:

ESTIMATED REVENUE EFFECTS OF H.R. 3991, THE "TAXPAYER PROTECTION AND IRS ACCOUNTABILITY ACT OF 2002," AS REPORTED BY THE COMMITTEE ON WAYS AND MEANS

[Fiscal years 2002–2007, in millions of dollars]

Provision	Effective	2002	2003	2004	2005	2006	2007	2002–7
Reforming Penalty and Interest Provisions:								
1. Clarification of application of Federal tax deposit penalty	DOE	(1)	−5	−5	−5	−5	−5	−27
2. Failure to pay estimated tax	etpm tyba 12/31/02	.....	.....	−72	−74	−76	−78	−300
3. Exclusion from gross income for interest on overpayments of income tax by individuals	iri cyba DOE	.....	963	−96	−99	−103	−106	559
4. Abatement of interest	iao/a DOE	.....	(1)	−1	−1	−1	−2	−5
5. Deposits to stop the running of interests on potential underpayments	dma DOE	19	76	47	−4	−4	−4	130
6. Expansion of interest netting for individuals	iaa 12/31/02	.....	(1)	−1	−1	−1	−2	−5
7. Waiver of certain penalties for first-time unintentional minor errors	after 12/31/02	.....	−15	−15	−16	−16	−16	−78
8. Frivolous tax returns and submissions	(2)	Negligible Revenue Effect						
Total of Reforming Penalty and Interest Provisions	.....	19	1,019	−143	−200	−206	−213	274
Provisions to Improve the Fairness of IRS Collection Procedures:								
1. Authorize IRS to enter into installment agreements that provide for partial payment	iaeio/a DOE	11	30	14	5	(13)	(13)	61
2. Extend time limit for contesting IRS levy	DOE	.....	−1	−2	−2	−3	−3	−11
3. Place threshold on tolling of statute of limitations during review by Taxpayer Advocate Service .	DOE	Negligible Revenue Effect						
4. Study of liens and levies	1ya DOE	No Revenue Effect						
Total of Provisions to Improve the Fairness of IRS Collection Procedures	.....	11	29	12	3	−3	−3	50
Provisions to Improve the Efficiency of Tax Administration:								
1. Modify section 1203 of the IRS Restructing and Reform Act of 1998	DOE	Negligible Revenue Effect						
2. Confirmation of tax court authority to apply equitable recoupment	(4)	No Revenue Effect						
3. Consolidate review of collection due process cases in the Tax Court	afa DOE	No Revenue Effect						
4. Office of Chief Counsel Review of offers-in-compromise	oicsopo/a DOE	No Revenue Effect						
Total of Provisions to Improve the Efficiency of Tax Administration	.....	(5)	(5)	(5)	(5)	(5)	(5)	(5)
Taxpayer Information Confidentiality Provisions:								
1. Collection activities with respect to a joint return disclosable based on oral request	rma DOE	No Revenue Effect						
2. Taxpayer representatives not subject to examination without supervisor approval	DOE	No Revenue Effect						

ESTIMATED REVENUE EFFECTS OF H.R. 3991, THE ''TAXPAYER PROTECTION AND IRS ACCOUNTABILITY ACT OF 2002,'' AS REPORTED BY THE COMMITTEE ON WAYS AND MEANS—Continued

[Fiscal years 2002–2007, in millions of dollars]

Provision	Effective	2002	2003	2004	2005	2006	2007	2002–7
3. Disclosure in judicial or administrative tax proceedings of return and return information of persons who are not party to such proceedings .	pca DOE				No Revenue Effect			
4. Prohibitation of disclosure of taxpayer identification information with respect to disclosure of accepted offers-in-compromise .	Dma DOE				No Revenue Effect			
5. Compliance by contractors with confidentially safeguards	Dma 12/31/02				No Revenue Effect			
6. Higher standards for requests for the consents to disclosure	racma 3ma DOE				No Revenue Effect			
7. Notice to taxpayer concerning administrative determination of browsing; annual report	DOE & cyea DOE				No Revenue Effect			
8. Disclosure regarding suicide threats	DOE				No Revenue Effect			
9. Disclosure of taxpayer identity for tax refund purposes	DOE				No Revenue Effect			
10. Disclosure to state officials relating to section 501(c)(3) organizations	DOE				No Revenue Effect			
Total of Taxpayer Information Confidentiality Provisions								
Miscellaneous Provisions:								
1. Clarification of definition of church tax inquiry	DOE				No Revenue Effect			
2. Expansion of declaratory judgment procedures to non-501(c)(3) tax-exempt organizations .	[6]				No Revenue Effect			
3. Employee misconduct report to include summary of complaints by category	repea DOE				No Revenue Effect			
4. Annual report on awards of costs and certain fees in administrative and court proceedings .	[7]				No Revenue Effect			
5. Annual report on abatement of penalties	[8]				No Revenue Effect			
6. Better means of communicating with taxpayers	[9]				No Revenue Effect			
7. Information regarding statute of limitations	[10]				No Revenue Effect			
8. Amendment to treasury auction reforms [11]	mha DOE				No Revenue Effect			
9. Enrolled agents	DOE				No Revenue Effect			
Total of Miscellaneous Provisions		[5]	[5]	[5]	[5]	[5]	[5]	[5]
Authorization for Appropriation—Low-income Taxpayer Clinics [11]	DOE				No Revenue Effect			
Additional Provisions:								
1. Reporting requirements of State and local political organizations	DOE & 7/1/00	−3	−5	−1	−1	[1]	[1]	−10
2. Extend the due date for electronically filed returns	rfa 12/31/02				No Revenue Effect			
3. Restoration of retirement saving after improper levy	arttta 12/31/02				No Revenue Effect			

4. Allow the Financial Management Service to retain transaction fees from levied amounts [11] .	DOE	No Revenue Effect						
5. Capital gains treatment to apply to outright sales of timber by landowners	sota DOE	No Revenue Effect						
Total of Additional Provisions		−3	−5	−1	−1	(1)	(1)	−10
Net Total		27	1,043	−132	−198	−209	−216	−314

[1] Loss of less than $500,000.

[2] Provision effective of submissions made and issues raised after the date on which the Secretary first prescribes the required lists.

[3] Gain of less than $500,000.

[4] The proposed would be effective for any action or proceeding in the Tax court with respect to which a decision has not become final as of the date of enactment.

[5] Negligible revenue effect.

[6] The extension of the declaratory judgment procedures to organizations other than section 501(c)(3) organizations would be effective for pleadings with respect to determinations made and the date of enactment.

[7] The first annual report would be required for fiscal year 2002. The reports must be published no later than three months following the close of the fiscal year.

[8] The first annual report would be required for fiscal year 2002. The reports must be provided to the Congress no later than six months following the close of the fiscal year.

[9] The report must be issued no later than 18 months after the date of enactment.

[10] The revisions to Publication 1 would be required to be made as soon as practicable, but no later than 180 days after the date of enactment. The revisions to the Form 1040 instructional packages would be required to be made for instructions for taxable years beginning after December 31, 2001.

[11] Estimate provided by Congressional Budget Office.

Legend for ''Effective'' column: afa = appeals filed after; arttta = amounts returned to the taxpayer after; cyba = calendar years beginning after; cyea = calendar years ending after; DOE = date of enactment; dma = distributions made after; Dma = disclosures made after; etpm = estimated tax payments made; iaa - interest accrued after; iaeio/a = installment agreements entered into on or after; iao/a = interest accruing on or after; iri = interest received in; mba = meeting held after; pca = proceedings commenced after; racma = requests and consents made after; rfa = returns filed after; rma = requests made after; rpea = reporting periods ending after; sota = sales of timber after; typa = taxable years beginning after; 3ma = three months after; and 1ya = one year after.

Note.—Details may not add to totals due to rounding.

Source: Joint Committee on Taxation.

B. Statement Regarding New Budget Authority and Tax Expenditures

Budget authority

In compliance with clause 3(c)(2) of Rule XIII of the Rules of the House of Representatives, the Committee states that the bill involves no new or increased budget authority.

Tax expenditures

In compliance with clause 2(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that the revenue-reducing income tax provisions involve increased tax expenditures. (See amounts in table in Part IV.A., above.)

C. Cost Estimate Prepared by the Congressional Budget Office

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, requiring a cost estimate prepared by the Congressional Budget Office ("CBO"), the following statement by CBO is provided.

U.S. Congress,
Congressional Budget Office,
Washington, DC, April 9, 2002.

Hon. William "Bill" M. Thomas,
Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3991, the "Taxpayer Protections and IRS Accountability Act of 2002."

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Erin Whitaker (for revenues), Matthew Pickford (for federal costs), and Susan Sieg Tompkins (for the state and local impact).

Sincerely,

Barry B. Anderson
(For Dan L. Crippen, Director).

Enclosure.

H.R. 3991—Taxpayer Protection and IRS Accountability Act of 2002

Summary: H.R. 3991 would make several changes to laws currently affecting tax administration. The bill would waive or eliminate certain penalties for taxpayers who make certain errors on their tax returns, and would exclude from gross income the interest earned on overpayments of income by individual taxpayers.

The Joint Committee on Taxation (JCT) estimates that enacting H.R. 3991 would increase revenues by $27 million in 2002 and by $157 million over the 2002–2007 period, but would decrease revenue by $1.2 billion over the 2002–2012 period. CBO estimates that the bill would increase direct spending by $28 million over the 2002–2007 period, and by $58 million over the 2002–2012 period. Since the bill would affect direct spending and receipts, pay-as-you-go procedures would apply.

CBO has determined that certain provisions of titles V and VII which would require the Treasury Department to prepare a number of reports and authorize the Financial Management Service to retain certain collections contain no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, and tribal governments. JCT has determined that the remaining provisions of the bill contain no intergovernmental mandates as defined in UMRA.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 3991 is shown in the following table. The cost of this legislation would fall within budget function 800 (general government).

	By fiscal year, in millions of dollars—					
	2002	2003	2004	2005	2006	2007
CHANGES IN REVENUES [1]						
Failure to pay estimated tax	0	0	−72	−74	−76	−78
Exclusion from income for interest on overpayments	0	963	−96	−99	−103	−106
Waiver of certain penalties	0	−44	−46	−47	−49	−50
Other Provisions	27	95	51	−9	−14	−16
Total change in revenues	27	1,014	−163	−229	−242	−250
CHANGES IN DIRECT SPENDING						
Financial Management Service Estimated Outlays	2	5	5	5	5	6
SPENDING SUBJECT TO APPROPRIATION						
Spending Under Current Law for Low-Income Taxpayer Clinics:						
Authorization Level [2]	7	6	6	6	6	6
Estimated Outlays	7	6	6	6	6	6
Proposed Changes:						
Authorization Level	2	6	9	9	9	9
Estimated Outlays	1	6	9	9	9	9
Low-Income Taxpayer Clinics Under H.R. 3991:						
Authorization Level	9	12	15	15	15	15
Estimated Outlays	8	12	15	15	15	15

[1] Estimates provided by Joint Committee on Taxation.
[2] The 2002 level is the amount appropriated that year for low-income taxpayer clinics.

Basis of the estimate

Revenues

The estimates of the revenue provisions of the bill were provided by JCT. Three provisions would compose the majority of the effects on revenues. The provisions that would alter penalties for taxpayers who fail to pay estimated tax liability, exclude gross income interest that is paid to taxpayers who make payments above their tax liability, and permit the IRS to waive penalties for taxpayers who make unintentional minor errors while filing tax returns or paying taxes would increase revenues by $157 million over the 2002–2007 period, and reduce revenues by $1.2 billion over the 2002–2012 period.

Direct spending

Title V of H.R. 3991 would allow the Financial Management Service (FMS) to retain a portion of amounts levied under the Federal Payment Levy Program that FMS administers for the Internal Revenue Service (IRS). The levy program allows the IRS to collect a portion of certain payments disbursed by FMS to delinquent taxpayers. Under current law, IRS pays FMS' administrative costs for

this program from its annual appropriation. H.R. 3991 would allow FMS to retain a portion of the funds it collects to cover its costs. CBO estimates that this provision would increase direct spending by $28 million over the 2002–2007 period.

Spending subject to appropriation

Under current law, the Secretary of the Treasury is authorized to provide up to $6 million per year in grants to low income taxpayer clinics. H.R. 3991 would increase this authorization to $9 million in 2003, $12 million in 2004, and $15 million for each year thereafter. CBO estimates that implementing these provisions would cost $43 million over the 2002–2007 period.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes to government receipts that are subject to pay-as-you-go procedures are shown on the following table. For purposes of enforcing pay-as-you-go procedures, only the effects through 2006 are counted.

	By fiscal year, in millions of dollars—										
	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Changes in receipts	27	1,014	−163	−229	−242	−250	−257	−266	−278	−283	−295
Changes in outlays	2	5	5	5	5	6	6	6	6	6	6

Intergovernmental and private sector impact: CBO has determined that certain provisions of titles V and VII which would require the Treasury Department to prepare a number of reports and authorize the Financial Management Service to retain certain collections contain no intergovernmental mandates as defined in UMRA and would not affect the budgets of state, local, and tribal governments. JCT has determiend that the remaining provisions of the bill contain no intergovernmental mandates as defined in UMRA.

Estimate prepared by: Revenues: Erin Whitaker; Federal Costs: Matthew Pickford; Impact on State, Local, and Tribal Governments: Susan Sieg Thompkins; and Private-Sector Impact: Paige Piper/Bach.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis and G. Thomas Woodward, Assistant Director for Tax Analysis.

V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. Committee Oversight Findings and Recommendations

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives (relating to oversight findings), the Committee advises that it was a result of the Committee's oversight review concerning fairness to individual taxpayers that the Committee concluded that it is appropriate and timely to enact the revenue provisions included in the bill as reported.

B. Statement of General Performance Goals and Objectives

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goals and objectives of the tax provision in this legislation that authorizes funding of low-income taxpayer clinics are to assist in the development, expansion, and continuation of these clinics through matching grants. In addition, the Secretary may promote the benefits and encourage the use of these clinics. Low-income taxpayer clinics contribute to taxpayer compliance with the Internal Revenue Code and the recovery of tax revenues.

C. Constitutional Authority Statement

With respect to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives (relating to Constitutional Authority), the Committee states that the Committee's action in reporting this bill is derived from Article I of the Constitution, Section 8 ("The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises * * *"), and from the 16th Amendment to the Constitution.

D. Information Relating to Unfunded Mandates

This information is provided in accordance with section 423 of the Unfunded Mandates Act of 1995 (P.L. 104–4).

The Committee has determined that the bill does not contain Federal mandates on the private sector. The provision that ensures compliance by State contractors with confidentiality safeguards (sec. 405) imposes Federal intergovernmental mandates on State, local and tribal governments. The staff of the Joint Committee on Taxation estimates that the direct costs of complying with these Federal intergovernmental mandates will not exceed $50,000,000 (adjusted for inflation) in either the first fiscal year or in any of the 4 fiscal years following the first fiscal year.

E. Applicability of House Rule XXI 5(b)

Rule XXI 5(b) of the Rules of the House of Representatives provides, in part, that "A bill or joint resolution, amendment, or conference report carrying a Federal income tax rate increase may not be considered as passed or agreed to unless so determined by a vote of not less than three-fifths of the Members voting, a quorum being present." The Committee has carefully reviewed the provisions of the bill, and states that the provisions of the bill do not involve any Federal income tax rate increase within the meaning of the rule.

F. Tax Complexity Analysis

Section 4022(b) of the Internal Revenue Service Reform and Restructuring Act of 1998 (the "IRS Reform Act") requires the staff of the Joint Committee on Taxation (in consultation with the Internal Revenue Service and the Department of the Treasury) to provide a tax complexity analysis. The complexity analysis is required for all legislation reported by the House Committee on Ways and Means, the Senate Committee on Finance, or any committee of conference if the legislation includes a provision that directly or indi-

rectly amends the Internal Revenue Code and has widespread applicability to individuals or small businesses.

The staff of the Joint Committee on Taxation has determined that a complexity analysis is not required under section 4022(b) of the IRS Reform Act because the bill contains no provisions that amend the Internal Revenue Code and that have "widespread applicability" to individuals or small businesses.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

INTERNAL REVENUE CODE OF 1986

* * * * * * *

Subtitle A—Income Taxes

* * * * * * *

CHAPTER 1—NORMAL TAXES AND SURTAXES

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Subchapter B—Computation of Taxable Income

* * * * * * *

PART III—ITEMS SPECIFICALLY EXCLUDED FROM GROSS INCOME

SEC. 139A. EXCLUSION FROM GROSS INCOME FOR INTEREST ON OVERPAYMENTS OF INCOME TAX BY INDIVIDUALS.

(a) IN GENERAL.—In the case of an individual, gross income shall not include interest paid under section 6611 on any overpayment of tax imposed by this subtitle.

(b) EXCEPTION.—Subsection (a) shall not apply in the case of a failure to claim items resulting in the overpayment on the original return if the Secretary determines that the principal purpose of such failure is to take advantage of subsection (a).

(c) SPECIAL RULE FOR DETERMINING MODIFIED ADJUSTED GROSS INCOME.—For purposes of this title, interest not included in gross income under subsection (a) shall not be treated as interest which is exempt from tax for purposes of sections 32(i)(2)(B) and 6012(d)

or any computation in which interest exempt from tax under this title is added to adjusted gross income.

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PART VI—ITEMIZED DEDUCTIONS FOR INDIVIDUALS AND CORPORATIONS

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SEC. 167. DEPRECIATION.

(a) * * *

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(g) DEPRECIATION UNDER INCOME FORECAST METHOD.—

(1) * * *

* * * * * * *

(5) SPECIAL RULES.—

(A) * * *

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(D) COLLECTION OF INTEREST.—For purposes of subtitle F (other than sections **[**6654**]** *6641* and 6655), any interest required to be paid by the taxpayer under paragraph (1) for any recomputation year shall be treated as an increase in the tax imposed by this chapter for such year.

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Subchapter E—Accounting Periods and Methods of Accounting

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PART II—METHODS OF ACCOUNTING

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Subpart B—Taxable Year for Which Items of Gross Income Included

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SEC. 460. SPECIAL RULES FOR LONG-TERM CONTRACTS.

(a) REQUIREMENT THAT PERCENTAGE OF COMPLETION METHOD BE USED.—In the case of any long-term contract, the taxable income from such contract shall be determined under the percentage of completion method (as modified by subsection (b)).

(b) PERCENTAGE OF COMPLETION METHOD.—

(1) * * *

In the case of any long-term contract with respect to which the percentage of completion method is used, except for purposes of applying the look-back method of paragraph (3) [(2)], any income under the contract (to the extent not previously includible in gross income) shall be included in gross income for the taxable year following the taxable year in which the contract was completed.

For purposes of subtitle F (other than sections **[**6654**]** *6641* and 6655) any interest required to be paid by the taxpayer under sub-

paragraph (B) shall be treated as an increase in the tax imposed by this chapter for the taxable year in which the contract is completed (or, in the case of interest payable with respect to any amount properly taken into account after completion of the contract, for the taxable year in which the amount is so properly taken into account).

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Subchapter F—Exempt Organizations

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PART VI—POLITICAL ORGANIZATIONS

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SEC. 527. POLITICAL ORGANIZATIONS.

(a) * * *

* * * * * * *

(e) OTHER DEFINITIONS.—For purposes of this section—

(1) * * *

* * * * * * *

(5) EXEMPT STATE OR LOCAL POLITICAL ORGANIZATION.—

(A) IN GENERAL.—The term "exempt State or local political organization" means a political organization—

(i) which does not engage in any exempt function other than to influence or to attempt to influence the selection, nomination, election, or appointment of any individual to any State or local public office or office in a State or local political organization,

(ii) which is subject to State or local requirements to submit reports containing information—

(I) regarding individual expenditures from and contributions to such organization, and

(II) regarding the person who makes such contributions or receives such expenditures,

which is substantially similar to the information which would otherwise be required to be reported under this section, and

(iii) with respect to which the reports referred to in clause (ii) are made public by the agency with which such reports are filed and are publicly available for inspection in a manner similar to that required by section 6104(d)(1).

(B) PARTICIPATION OF FEDERAL CANDIDATE OR OFFICE HOLDER.—The term "exempt State or local political organization" shall not include any organization otherwise described in subparagraph (A) if a candidate for nomination or election to Federal elective office or an individual who holds such office—

(i) controls or materially participates in the direction of the organization, or

(ii) directs, in whole or in part, expenditures or fundraising activities of the organization.

* * * * * * *

(i) ORGANIZATIONS MUST NOTIFY SECRETARY THAT THEY ARE SECTION 527 ORGANIZATIONS.—

(1) IN GENERAL.—Except as provided in paragraph (5), an organization shall not be treated as an organization described in this section—

(A) unless it has given notice to the Secretary[, electronically and in writing,] that it is to be so treated, or

(B) if the notice is given after the time required under paragraph (2), the organization shall not be so treated for any period before such notice is given.

* * * * * * *

(4) EFFECT OF FAILURE.—In the case of an organization failing to meet the requirements of paragraph (1) for any period, the taxable income of such organization shall be computed by taking into account any exempt function income (and any deductions directly connected with the production of such income). *For purposes of the preceding sentence, the term "exempt function income" means any amount described in a subparagraph of subsection (c)(3), whether or not segregated for use for an exempt function.*

(5) EXCEPTIONS.—This subsection shall not apply to any organization—

(A) to which this section applies solely by reason of subsection (f)(1), [or]

(B) which reasonably anticipates that it will not have gross receipts of $25,000 or more for any taxable year[.], *or*

(C) which is—

(i) a political committee of a State or local candidate, or

(ii) a local committee of an entity which is a political party under State law.

* * * * * * *

(j) REQUIRED DISCLOSURE OF EXPENDITURES AND CONTRIBUTIONS.—

(1) PENALTY FOR FAILURE.—In the case of—

(A) a failure to make the required disclosures under paragraph (2) at the time and in the manner prescribed therefor, or

(B) a failure to include any of the information required to be shown by such disclosures or to show the correct information,there shall be paid by the organization an amount equal to the rate of tax specified in subsection (b)(1) multiplied by the amount to which the failure relates.

For purposes of subtitle F, the penalty imposed by this paragraph shall be assessed and collected in the same manner as penalties imposed by section 6652(c).

* * * * * * *

(5) COORDINATION WITH OTHER REQUIREMENTS.—This subsection shall not apply—

(A) to any person required (without regard to this subsection) to report under the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) as a political committee,

[(B) to any State or local committee of a political party or political committee of a State or local candidate,]

(B) to any organization which is—

(i) a political committee of a State or local candidate, or

(ii) a State or local committee of an entity which is a political party under State law,

(C) to any organization which is an exempt State or local political organization,

[(C)] *(D)* to any organization which reasonably anticipates that it will not have gross receipts of $25,000 or more for any taxable year,

[(D)] *(E)* to any organization to which this section applies solely by reason of subsection (f)(1), or

[(E)] *(F)* with respect to any expenditure which is an independent expenditure (as defined in section 301 of such Act).

(k) AUTHORITY TO WAIVE.—The Secretary may waive all or any portion of the—

(1) tax assessed on an organization by reason of the failure of the organization to give notice under subsection (i), or

(2) penalty imposed under subsection (j) for a failure to file a report,

on a showing that such failure was due to reasonable cause and not due to willful neglect.

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Subchapter I—Natural Resources

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PART III—SALES AND EXCHANGES

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SEC. 631. GAIN OR LOSS IN THE CASE OF TIMBER, COAL, OR DOMESTIC IRON ORE.

(a) * * *

(b) DISPOSAL OF TIMBER WITH A RETAINED ECONOMIC INTEREST.—In the case of the disposal of timber held for more than 1 year before such disposal, by the owner thereof under any form or type of contract by virtue of which such owner [retains an economic interest in such timber] *either retains an economic interest in such timber or makes an outright sale of such timber*, the difference between the amount realized from the disposal of such timber and the adjusted depletion basis thereof, shall be considered as though it were a gain or loss, as the case may be, on the sale of such timber. In determining the gross income, the adjusted gross income, or the taxable income of the lessee, the deductions allowable with respect to rents and royalties shall be determined without regard to the provisions of this subsection. [The date of dis-

posal] *In the case of disposal of timber with a retained economic interest, the date of disposal* of such timber shall be deemed to be the date such timber is cut, but if payment is made to the owner under the contract before such timber is cut the owner may elect to treat the date of such payment as the date of disposal of such timber. For purposes of this subsection, the term 'owner' means any person who owns an interest in such timber, including a sublessor and a holder of a contract to cut timber.

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Subtitle C—Employment Taxes

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CHAPTER 25—GENERAL PROVISIONS RELATING TO EMPLOYMENT TAXES

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SEC. 3510. COORDINATION OF COLLECTION OF DOMESTIC SERVICE EMPLOYMENT TAXES WITH COLLECTION OF INCOME TAXES.

(a) * * *

(b) DOMESTIC SERVICE EMPLOYMENT TAXES SUBJECT TO ESTIMATED TAX PROVISIONS.—

(1) IN GENERAL.—Solely for purposes of [section 6654] *section 6641*, domestic service employment taxes imposed with respect to any calendar year shall be treated as a tax imposed by chapter 2 for the taxable year of the employer which begins in such calendar year.

(2) EMPLOYERS NOT OTHERWISE REQUIRED TO MAKE ESTIMATED PAYMENTS.—Paragraph (1) shall not apply to any employer for any calendar year if—

(A) * * *

[(B) no addition to tax would (but for this section) be imposed under section 6654 for such taxable year by reason of section 6654(e).]

(B) no interest would be required to be paid (but for this section) under 6641 for such taxable year by reason of the $2,000 amount specified in section 6641(d)(1)(B)(i)(II).

(3) ANNUALIZATION.—Under regulations prescribed by the Secretary, appropriate adjustments shall be made in the application of [section 6654(d)(2)] *section 6641(d)(2)* in respect of the amount treated as tax under paragraph (1).

[(4) TRANSITIONAL RULE.—In the case of any taxable year beginning before January 1, 1998, no addition to tax shall be made under section 6654 with respect to any underpayment to the extent such underpayment was created or increased by this section.]

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Subtitle F—Procedure and Administration

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CHAPTER 61—INFORMATION AND RETURNS

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PART II—TAX RETURNS OR STATEMENTS

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Subpart B—Income Tax Returns

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SEC. 6012. PERSONS REQUIRED TO MAKE RETURNS OF INCOME.

(a) GENERAL RULE.—Returns with respect to income taxes under subtitle A shall be made by the following:

(1) * * *

* * * * * * *

(6) Every political organization (within the meaning of section 527(e)(1), and every fund treated under section 527(g) as if it constituted a political organization, which has political organization taxable income (within the meaning of section 527(c)(1) for the taxable year **[**or which has gross receipts of $25,000 or more for the taxable year (other than an organization to which section 527 applies solely by reason of subsection (f)(1) of such section)**]**;

* * * * * * *

PART III—INFORMATION RETURNS

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Subpart A—Information Concerning Persons Subject to Special Provisions

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SEC. 6033. RETURNS BY EXEMPT ORGANIZATIONS.

(a) * * *

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[(g) RETURNS REQUIRED BY POLITICAL ORGANIZATIONS.—In the case of a political organization required to file a return under section 6012(a)(6)—

[(1) such organization shall file a return—

[(A) containing the information required, and complying with the other requirements, under subsection (a)(1) for organizations exempt from taxation under section 501(a), and

[(B) containing such other information as the Secretary deems necessary to carry out the provisions of this subsection, and

[(2) subsection (a)(2)(B) (relating to discretionary exceptions) shall apply with respect to such return.**]**

(g) RETURNS REQUIRED BY POLITICAL ORGANIZATIONS.—

(1) IN GENERAL.—Every political organization (within the meaning of section 527(e)(1)), and every fund treated under section 527(g) as if it constituted a political organization, which

has gross receipts of $25,000 or more for the taxable year shall file a return—

(A) containing the information required, and complying with the other requirements, under subsection (a)(1) for organizations exempt from taxation under section 501(a), and

(B) containing such other information as the Secretary deems necessary to carry out the provisions of this subsection.

(2) EXCEPTIONS FROM FILING.—

(A) MANDATORY EXCEPTIONS.—Paragraph (1) shall not apply to an organization—

(i) which is an exempt State or local political organization (as defined in section 527(e)(5)),

(ii) which is a State or local committee of a political party, or political committee of a State or local candidate, as defined by State law,

(iii) which is a caucus or association of State or local elected officials,

(iv) which is a national association of State or local officials,

(v) which is an authorized committee (as defined in section 301(6) of the Federal Election Campaign Act of 1971) of a candidate for Federal office,

(vi) which is a national committee (as defined in section 301(14) of the Federal Election Campaign Act of 1971) of a political party, or

(vii) to which section 527 applies for the taxable year solely by reason of subsection (f)(1) of such section.

(B) DISCRETIONARY EXCEPTION.—The Secretary may relieve any organization required under paragraph (1) to file an information return from filing such a return where he determines that such filing is not necessary to the efficient administration of the internal revenue laws.

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PART V—TIME FOR FILING RETURNS AND OTHER DOCUMENTS

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SEC. 6072. TIME FOR FILING INCOME TAX RETURNS.

(a) * * *

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(f) ELECTRONICALLY FILED RETURNS OF INDIVIDUALS.—

(1) IN GENERAL.—Returns of an individual under section 6012 or 6013 (other than an individual to whom subsection (c) applies) which are filed electronically—

(A) in the case of returns filed on the basis of a calendar year, shall be filed on or before the 30th day of April following the close of the calendar year, and

(B) in the case of returns filed on the basis of a fiscal year, shall be filed on or before the last day of the 4th month following the close of the fiscal year.

(2) ELECTRONIC FILING.—Paragraph (1) shall not apply to any return unless—

(A) such return is accepted by the Secretary, and

(B) the balance due (if any) shown on such return is paid electronically in a manner prescribed by the Secretary.

(3) SPECIAL RULES.—

(A) ESTIMATED TAX.—If—

(i) paragraph (1) applies to an individual for any taxable year, and

(ii) there is an overpayment of tax shown on the return for such year which the individual allows against the individual's obligation under section 6641,

then, with respect to the amount so allowed, any reference in section 6641 to the April 15 following such taxable year shall be treated as a reference to April 30.

(B) REFERENCES TO DUE DATE.—Paragraph (1) shall apply solely for purposes of determining the due date for the individual's obligation to file and pay tax and, except as otherwise provided by the Secretary, shall be treated as an extension of the due date for any other purpose under this title.

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Subchapter B—Miscellaneous Provisions

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SEC. 6103. CONFIDENTIALITY AND DISCLOSURE OF RETURNS AND RETURN INFORMATION.

(a) GENERAL RULE.—Returns and return information shall be confidential, and except as authorized by this title--

(1) * * *

(2) no officer or employee of any State, any local child support enforcement agency, or any local agency administering a program listed in subsection (l)(7)(D) who has or had access to returns or return information under this section *or section 6104(c)*, and

(3) no other person (or officer or employee thereof) who has or had access to returns or return information under subsection (e)(1)(D)(iii), paragraph (6), (12), or (16) of subsection (l), paragraph (2) or (4)(B) of subsection (m), **[**or subsection (n)**]** *subsection (n), or section 6104(c)*, shall disclose any return or return information obtained by him in any manner in connection with his service as such an officer or an employee or otherwise or under the provisions of this section. For purposes of this subsection, the term "officer or employee" includes a former officer or employee.

* * * * * * *

(c) DISCLOSURE OF RETURNS AND RETURN INFORMATION TO DESIGNEE OF **[**TAXPAYER.—The Secretary**]** *TAXPAYER.—*

(1) IN GENERAL.—The Secretary may, subject to such requirements and conditions as he may prescribe by regulations, disclose the return of any taxpayer, or return information with respect to such taxpayer, to such person or persons as the taxpayer may designate in a request for or consent to such disclosure, or to any other person at the taxpayer's request to the extent necessary to comply with a request for information or

assistance made by the taxpayer to such other person. However, return information shall not be disclosed to such person or persons if the Secretary determines that such disclosure would seriously impair Federal tax administration.

(2) REQUIREMENTS FOR VALID REQUESTS AND CONSENTS.—A request for or consent to disclosure under paragraph (1) shall only be valid for purposes of this section or sections 7213, 7213A, or 7431 if—

(A) at the time of execution, such request or consent designates a recipient of such disclosure and is dated, and

(B) at the time such request or consent is submitted to the Secretary, the submitter of such request or consent certifies, under penalty of perjury, that such request or consent complied with subparagraph (A).

(3) RESTRICTIONS ON PERSONS OBTAINING INFORMATION.—Any person shall, as a condition for receiving return or return information under paragraph (1)—

(A) ensure that such return and return information is kept confidential,

(B) use such return and return information only for the purpose for which it was requested, and

(C) not disclose such return and return information except to accomplish the purpose for which it was requested, unless a separate consent from the taxpayer is obtained.

(4) REQUIREMENTS FOR FORM PRESCRIBED BY SECRETARY.—For purposes of this subsection, the Secretary shall prescribe a form for requests and consents which shall—

(A) contain a warning, prominently displayed, informing the taxpayer that the form should not be signed unless it is completed,

(B) state that if the taxpayer believes there is an attempt to coerce him to sign an incomplete or blank form, the taxpayer should report the matter to the Treasury Inspector General for Tax Administration, and

(C) contain the address and telephone number of the Treasury Inspector General for Tax Administration.

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(e) DISCLOSURE TO PERSONS HAVING MATERIAL INTEREST.—

(1) * * *

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(8) DISCLOSURE OF COLLECTION ACTIVITIES WITH RESPECT TO JOINT RETURN.—If any deficiency of tax with respect to a joint return is assessed and the individuals filing such return are no longer married or no longer reside in the same household, upon request [in writing] by either of such individuals, the Secretary shall disclose in writing to the individual making the request whether the Secretary has attempted to collect such deficiency from such other individual, the general nature of such collection activities, and the amount collected. The preceding sentence shall not apply to any deficiency which may not be collected by reason of section 6502.

* * * * * * *

(h) DISCLOSURE TO CERTAIN FEDERAL OFFICERS AND EMPLOYEES FOR PURPOSES OF TAX ADMINISTRATION, ETC.—

(1) * * *

* * * * * * *

(4) DISCLOSURE IN JUDICIAL AND ADMINISTRATIVE TAX [PROCEEDINGS.—A return] *PROCEEDINGS.*—

(A) IN GENERAL.—Except as provided in subparagraph (B), a return or return information may be disclosed in a Federal or State judicial or administrative proceeding pertaining to tax administration, but only—

[(A)] *(i)* if the taxpayer is a party to the proceeding, or the proceeding arose out of, or in connection with, determining the taxpayer's civil or criminal liability, or the collection of such civil liability, in respect of any tax imposed under this title;

[(B)] *(ii)* if the treatment of an item reflected on such return is directly related to the resolution of an issue in the proceeding;

[(C)] *(iii)* if such return or return information directly relates to a transactional relationship between a person who is a party to the proceeding and the taxpayer which directly affects the resolution of an issue in the proceeding; or

[(D)] *(iv)* to the extent required by order of a court pursuant to section 3500 of title 18, United States Code, or rule 16 of the Federal Rules of Criminal Procedure, such court being authorized in the issuance of such order to give due consideration to congressional policy favoring the confidentiality of returns and return information as set forth in this title.

However, such return or return information shall not be disclosed as provided in [subparagraph (A), (B), or (C)] *clause (i), (ii), or (iii)* if the Secretary determines that such disclosure would identify a confidential informant or seriously impair a civil or criminal tax investigation.

(B) DISCLOSURE IN JUDICIAL OR ADMINISTRATIVE TAX PROCEEDINGS OF RETURN AND RETURN INFORMATION OF PERSONS NOT PARTY TO SUCH PROCEEDINGS.—

(i) NOTICE.—Return or return information of any person who is not a party to a judicial or administrative proceeding described in this paragraph shall not be disclosed under clause (ii) or (iii) of subparagraph (A) until after the Secretary makes a reasonable effort to give notice to such person and an opportunity for such person to request the deletion of matter from such return or return information, including any of the items referred to in paragraphs (1) through (7) of section 6110(c). Such notice shall include a statement of the issue or issues the resolution of which is the reason such return or return information is sought. In the case of S corporations, partnerships, estates, and trusts, such notice shall be made at the entity level.

(ii) DISCLOSURE LIMITED TO PERTINENT PORTION.—The only portion of a return or return information described in clause (i) which may be disclosed under sub-

paragraph (A) is that portion of such return or return information that directly relates to the resolution of an issue in such proceeding.

(iii) EXCEPTIONS.—Clause (i) shall not apply—

(I) to any civil action under section 7407, 7408, or 7409,

(II) to any ex parte proceeding for obtaining a search warrant, order for entry on premises or safe deposit boxes, or similar ex parte proceeding,

(III) to disclosure of third party return information by indictment or criminal information, or

(IV) if the Attorney General or the Attorney General's delegate determines that the application of such clause would seriously impair a criminal tax investigation or proceeding.

* * * * * * *

(7) TAXPAYER REPRESENTATIVES.—Notwithstanding paragraph (1), the return of the representative of a taxpayer whose return is being examined by an officer or employee of the Department of the Treasury shall not be open to inspection by such officer or employee on the sole basis of the representative's relationship to the taxpayer unless a supervisor of such officer or employee has approved the inspection of the return of such representative on a basis other than by reason of such relationship.

* * * * * * *

(i) DISCLOSURE TO FEDERAL OFFICERS OR EMPLOYEES FOR ADMINISTRATION OF FEDERAL LAWS NOT RELATING TO TAX ADMINISTRATION.—

(1) * * *

* * * * * * *

(3) DISCLOSURE OF RETURN INFORMATION TO APPRISE APPROPRIATE OFFICIALS OF CRIMINAL OR TERRORIST ACTIVITIES OR EMERGENCY CIRCUMSTANCES.—

(A) * * *

(B) EMERGENCY CIRCUMSTANCES.—

(i) DANGER OF DEATH OR PHYSICAL INJURY.—Under circumstances involving an imminent danger of death or physical injury to any individual, the Secretary may disclose return information to the extent necessary to apprise appropriate officers or employees of any Federal [or State], *State, or local* law enforcement agency of such circumstances.

(ii) FLIGHT FROM FEDERAL PROSECUTION

Under circumstances involving the imminent flight of any individual from Federal prosecution, the Secretary may disclose return information to the extent necessary to apprise appropriate officers or employees of any Federal law enforcement agency of such circumstances.

* * * * * * *

(k) DISCLOSURE OF CERTAIN RETURNS AND RETURN INFORMATION FOR TAX ADMINISTRATION PURPOSES.—

(1) DISCLOSURE OF ACCEPTED OFFERS-IN-COMPROMISE.—Return information *(other than the taxpayer's address and TIN)* shall be disclosed to members of the general public to the extent necessary to permit inspection of any accepted offer-in-compromise under section 7122 relating to the liability for a tax imposed by this title.

* * * * * * *

(m) DISCLOSURE OF TAXPAYER IDENTITY INFORMATION.—

(1) TAX REFUNDS.—The Secretary may disclose taxpayer identity information to the press [and other media], *other media, and through any other means of mass communication,* for purposes of notifying persons entitled to tax refunds when the Secretary, after reasonable effort and lapse of time, has been unable to locate such persons.

* * * * * * *

(p) PROCEDURE AND RECORDKEEPING.—

(1) * * *

* * * * * * *

(3) RECORDS OF INSPECTION AND DISCLOSURE.—

(A) SYSTEM OF RECORDKEEPING.—Except as otherwise provided by this paragraph, the Secretary shall maintain a permanent system of standardized records or accountings of all requests for inspection or disclosure of returns and return information (including the reasons for and dates of such requests) and of returns and return information inspected or disclosed under this section *and section 6104(c)*. Notwithstanding the provisions of section 552a(c) of title 5, United States Code, the Secretary shall not be required to maintain a record or accounting of requests for inspection or disclosure of returns and return information, or of returns and return information inspected or disclosed, under the authority of subsections (c), (e), (f)(5), (h)(1), (3)(A), or (4), (i)(4), or (7)(A)(ii), (k)(1), (2), (6), (8), or (9) (l)(1), (4)(B), (5), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), or (17) (m) or (n). The records or accountings required to be maintained under this paragraph shall be available for examination by the Joint Committee on Taxation or the Chief of Staff of such joint committee. Such record or accounting shall also be available for examination by such person or persons as may be, but only to the extent, authorized to make such examination under section 552a(c)(3) of title 5, United States Code.

(4) SAFEGUARDS.—Any Federal agency described in subsection (h)(2), (h)(5), (i)(1), (2), (3), or (5), (j)(1), (2) or (5), (k)(8), (l)(1), (2), (3), (5), (11), (13), (14), or (17) or (o)(1), the General Accounting Office, the Congressional Budget Office, or any agency, body, or commission described in subsection (d), (i)(3)(B)(i) or (l)(6), (7), (8), (9), (12), (15), or [(16) or any other person described in subsection (l)(16)] *(16), any other person described in subsection (l)(16), or any appropriate State officer (as defined in section 6104(c))* shall, as a condition for receiving returns or return information—

(A) * * *

* * * * * * *

(F) upon completion of use of such returns or return information—

(i) in the case of an agency, body, or commission described in subsection (d), (i)(3)(B)(i), or (l)(6), (7), (8), (9), or (16), [or any other person described in subsection (l)(16)] *any other person described in subsection (l)(16), or any appropriate State officer (as defined in section 6104(c))* return to the Secretary such returns or return information (along with any copies made therefrom) or make such returns or return information undisclosable in any manner and furnish a written report to the Secretary describing such manner,

* * * * * * *

(8) STATE LAW REQUIREMENTS.—

(A) * * *

(B) DISCLOSURE OF RETURNS OR RETURN INFORMATION IN STATE RETURNS.—Nothing in subparagraph (A) *or paragraph (9)* shall be construed to prohibit the disclosure by an officer or employee of any State of any copy of any portion of a Federal return or any information on a Federal return which is required to be attached or included in a State return to another officer or employee of such State (or political subdivision of such State) if such disclosure is specifically authorized by State law.

(9) DISCLOSURE TO CONTRACTORS.—Notwithstanding any other provision of this section, no return or return information shall be disclosed by any officer or employee of any Federal agency or State to any contractor of such agency or State unless such agency or State—

(A) has requirements in effect which require each contractor of such agency or State which would have access to returns or return information to provide safeguards (within the meaning of paragraph (4)) to protect the confidentiality of such returns or return information,

(B) agrees to conduct an annual, on-site review (mid-point review in the case of contracts of less than 1 year in duration) of each contractor to determine compliance with such requirements,

(C) submits the findings of the most recent review conducted under subparagraph (B) to the Secretary as part of the report required by paragraph (4)(E), and

(D) certifies to the Secretary for the most recent annual period that all contractors are in compliance with all such requirements.

The certification required by subparagraph (D) shall include the name and address of each contractor, a description of the contract of the contractor with the Federal agency or State, and the duration of such contract.

(10) REPORT ON UNAUTHORIZED DISCLOSURE AND INSPECTION.—As part of the report required by paragraph (3)(C) for each calendar year, the Secretary shall furnish information re-

garding the unauthorized disclosure and inspection of returns and return information, including the number, status, and results of—

(A) administrative investigations,

(B) civil lawsuits brought under section 7431 (including the amounts for which such lawsuits were settled and the amounts of damages awarded), and

(C) criminal prosecutions.

* * * * * * *

SEC. 6104. PUBLICITY OF INFORMATION REQUIRED FROM CERTAIN EXEMPT ORGANIZATIONS AND CERTAIN TRUSTS.

(a) * * *

* * * * * * *

(c) PUBLICATION TO STATE OFFICIALS.—

(1) * * *

[(2) APPROPRIATE STATE OFFICER.—For purposes of this subsection, the term "appropriate State officer" means the State attorney general, State tax officer, or any State official charged with overseeing organizations of the type described in section 501(c)(3).]

(2) DISCLOSURE OF PROPOSED ACTIONS.—

(A) SPECIFIC NOTIFICATIONS.—In the case of an organization to which paragraph (1) applies, the Secretary may disclose to the appropriate State officer—

(i) a notice of proposed refusal to recognize such organization as an organization described in section 501(c)(3) or a notice of proposed revocation of such organization's recognition as an organization exempt from taxation,

(ii) the issuance of a letter of proposed deficiency of tax imposed under section 507 or chapter 41 or 42, and

(iii) the names and taxpayer identification numbers of organizations that have applied for recognition as organizations described in section 501(c)(3).

(B) ADDITIONAL DISCLOSURES.—Returns and return information of organizations with respect to which information is disclosed under subparagraph (A) may be made available for inspection by or disclosed to an appropriate State officer.

(C) PROCEDURES FOR DISCLOSURE.—Information may be inspected or disclosed under subparagraph (A) or (B) only—

(i) upon written request by an appropriate State officer, and

(ii) for the purpose of, and only to the extent necessary in, the administration of State laws regulating such organizations.

Such information may only be inspected by or disclosed to representatives of the appropriate State officer designated as the individuals who are to inspect or to receive the returns or return information under this paragraph on behalf of such officer.

(D) DISCLOSURES OTHER THAN BY REQUEST.—The Secretary may make available for inspection or disclose re-

turns and return information of an organization to which paragraph (1) applies to an appropriate State officer of any State if the Secretary determines that such inspection or disclosure may facilitate the resolution of State and Federal issues relating to such organization.

(3) USE IN JUDICIAL AND ADMINISTRATIVE PROCEEDINGS.—Returns and return information disclosed pursuant to this subsection may be disclosed in civil administrative and judicial proceedings pertaining to the enforcement of State laws regulating such organizations in a manner prescribed by the Secretary similar to that for tax administration proceedings under section 6103(h)(4).

(4) NO DISCLOSURE IF IMPAIRMENT.—Returns and return information shall not be disclosed under this subsection, or in any proceeding described in paragraph (3), to the extent that the Secretary determines that such disclosure would seriously impair Federal tax administration.

(5) DEFINITIONS.—For purposes of this subsection—

(A) RETURN AND RETURN INFORMATION.—The terms "return" and "return information" have the respective meanings given to such terms by section 6103(b).

(B) APPROPRIATE STATE OFFICER.—The term "appropriate State officer" means—

(i) the State attorney general, or

(ii) the head of any State agency, body, or commission which is charged under the laws of such State with responsibility for overseeing organizations of the type described in section 501(c)(3).

* * * * * * *

CHAPTER 62—TIME AND PLACE FOR PAYING TAX

* * * * * * *

Subchapter A—Place and Due Date for Payment of Tax

* * * * * * *

SEC. 6159. AGREEMENTS FOR PAYMENT OF TAX LIABILITY IN INSTALLMENTS.

(a) AUTHORIZATION OF AGREEMENTS.—The Secretary is authorized to enter into written agreements with any taxpayer under which such taxpayer is allowed to **[**satisfy liability for payment of**]** *make payment on* any tax in installment payments if the Secretary determines that such agreement will facilitate *full or partial* collection of such liability.

* * * * * * *

(c) SECRETARY REQUIRED TO ENTER INTO INSTALLMENT AGREEMENTS IN CERTAIN CASES.—In the case of a liability for tax of an individual under subtitle A, the Secretary shall enter into an agreement to accept the *full* payment of such tax in installments if, as of the date the individual offers to enter into the agreement—

(1) * * *

* * * * * * *

(d) SECRETARY REQUIRED TO REVIEW INSTALLMENT AGREEMENTS FOR PARTIAL COLLECTION EVERY TWO YEARS.—In the case of an agreement entered into by the Secretary under subsection (a) for partial collection of a tax liability, the Secretary shall review the agreement at least once every 2 years.

[(d)**]** *(e)* ADMINISTRATIVE REVIEW.—The Secretary shall establish procedures for an independent administrative review of terminations of installment agreements under this section for taxpayers who request such a review.

[(e)**]** *(f)* CROSS REFERENCE.—

For rights to administrative review and appeal, see section 7122(d).

* * * * * * *

CHAPTER 63—ASSESSMENT

* * * * * * *

Subchapter A—In General

* * * * * * *

SEC. 6201. ASSESSMENT AUTHORITY.

(a) * * *

(b) AMOUNT NOT TO BE ASSESSED.—

(1) ESTIMATED INCOME TAX.—No unpaid amount of estimated income tax required to be paid under section **[**6654**]** *6641* or 6655 shall be assessed.

* * * * * * *

Subchapter B—Deficiency Procedures in the Case of Income, Estate, Gift, and Certain Excise Taxes

* * * * * * *

SEC. 6214. DETERMINATIONS BY TAX COURT.

(a) * * *

(b) JURISDICTION OVER OTHER YEARS AND QUARTERS.—The Tax Court in redetermining a deficiency of income tax for any taxable year or of gift tax for any calendar year or calendar quarter shall consider such facts with relation to the taxes for other years or calendar quarters as may be necessary correctly to redetermine the amount of such deficiency, but in so doing shall have no jurisdiction to determine whether or not the tax for any other year or calendar quarter has been overpaid or underpaid. *Notwithstanding the preceding sentence, the Tax Court may apply the doctrine of equitable recoupment to the same extent that it is available in civil tax cases before the district courts of the United States and the United States Court of Federal Claims.*

* * * * * * *

Subchapter C—Lien for Taxes

* * * * * * *

PART I—DUE PROCESS FOR LIENS

* * * * * * *

SEC. 6320. NOTICE AND OPPORTUNITY FOR HEARING UPON FILING OF NOTICE OF LIEN.

(a) * * *

(b) RIGHT TO FAIR HEARING.—

(1) IN GENERAL.—If the person requests a hearing [under subsection (a)(3)(B)] *in writing under subsection (a)(3)(B) and states the grounds for the requested hearing*, such hearing shall be held by the Internal Revenue Service Office of Appeals.

* * * * * * *

(c) CONDUCT OF HEARING, REVIEW, SUSPENSIONS.—For purposes of this section, subsections (c), (d) (other than paragraph (2)(B) thereof), [and (e)] *(e), and (g)* of section 6330 shall apply.

* * * * * * *

Subchapter D—Seizure of Property for Collection of Taxes

* * * * * * *

PART I—DUE PROCESS FOR COLLECTIONS

* * * * * * *

SEC. 6330. NOTICE AND OPPORTUNITY FOR HEARING BEFORE LEVY.

(a) * * *

(b) RIGHT TO FAIR HEARING.—

(1) IN GENERAL.—If the person requests a hearing [under subsection (a)(3)(B)] *in writing under subsection (a)(3)(B) and states the grounds for the requested hearing*, such hearing shall be held by the Internal Revenue Service Office of Appeals.

* * * * * * *

(c) MATTERS CONSIDERED AT HEARING.—In the case of any hearing conducted under this section—

(1) * * *

* * * * * * *

(4) CERTAIN ISSUES PRECLUDED.—An issue may not be raised at the hearing if—

[(A)] *(A)(i)* the issue was raised and considered at a previous hearing under section 6320 or in any other previous administrative or judicial proceeding; and

[(B)] *(ii)* the person seeking to raise the issue participated meaningfully in such hearing or proceeding[.]*; or*

(B) the issue meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A).

This paragraph shall not apply to any issue with respect to which subsection (d)(2)(B) applies.

(d) PROCEEDING AFTER HEARING.—

[(1) JUDICIAL REVIEW OF DETERMINATION.—The person may, within 30 days of a determination under this section, appeal such determination—

[(A) to the Tax Court (and the Tax Court shall have jurisdiction with respect to such matter); or

[(B) if the Tax Court does not have jurisdiction of the underlying tax liability, to a district court of the United States.

If a court determines that the appeal was to an incorrect court, a person shall have 30 days after the court determination to file such appeal with the correct court.]

(1) JUDICIAL REVIEW OF DETERMINATION.—The person may, within 30 days of a determination under this section, appeal such determination to the Tax Court (and the Tax Court shall have jurisdiction with respect to such matter).

* * * * * * *

(g) FRIVOLOUS REQUESTS FOR HEARING, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of a request for a hearing under this section or section 6320 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.

* * * * * * *

SEC. 6343. AUTHORITY TO RELEASE LEVY AND RETURN PROPERTY.

(a) * * *

(b) RETURN OF PROPERTY.—If the Secretary determines that property has been wrongfully levied upon, it shall be lawful for the Secretary to return—

(1) * * *

* * * * * * *

Property may be returned at any time. An amount equal to the amount of money levied upon or received from such sale may be returned at any time before the expiration of [9 months] *2 years* from the date of such levy. For purposes of paragraph (3), if property is declared purchased by the United States at a sale pursuant to section 6335(e) (relating to manner and conditions of sale), the United States shall be treated as having received an amount of money equal to the minimum price determined pursuant to such section or (if larger) the amount received by the United States from the resale of such property.

* * * * * * *

(f) INDIVIDUALS HELD HARMLESS ON WRONGFUL LEVY, ETC. ON INDIVIDUAL RETIREMENT PLAN.—

(1) IN GENERAL.—If the Secretary determines that an individual retirement plan has been levied upon in a case to which subsection (b) or (d)(2)(A) applies, an amount equal to the sum of—

(A) the amount of money returned by the Secretary on account of such levy, and

(B) interest paid under subsection (c) on such amount of money,

may be deposited into an individual retirement plan (other than an endowment contract) to which a rollover from the plan levied upon is permitted.

(2) TREATMENT AS ROLLOVER.—The distribution on account of the levy and any deposit under paragraph (1) with respect to such distribution shall be treated for purposes of this title as if such distribution and deposit were part of a rollover described in section 408(d)(3)(A)(i); except that—

(A) interest paid under subsection (c) shall be treated as part of such distribution and as not includible in gross income,

(B) the 60-day requirement in such section shall be treated as met if the deposit is made not later than the 60th day after the day on which the individual receives an amount under paragraph (1) from the Secretary, and

(C) such deposit shall not be taken into account under section 408(d)(3)(B).

(3) REFUND, ETC., OF INCOME TAX ON LEVY.—If any amount is includible in gross income for a taxable year by reason of a levy referred to in paragraph (1) and any portion of such amount is treated as a rollover under paragraph (2), any tax imposed by chapter 1 on such portion shall not be assessed, and if assessed shall be abated, and if collected shall be credited or refunded as an overpayment made on the due date for filing the return of tax for such taxable year.

(4) INTEREST.—Notwithstanding subsection (d), interest shall be allowed under subsection (c) in a case in which the Secretary makes a determination described in subsection (d)(2)(A) with respect to a levy upon an individual retirement plan.

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CHAPTER 65—ABATEMENTS, CREDITS, AND REFUNDS

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Subchapter A—Procedure in General

* * * * * * *

SEC. 6404. ABATEMENTS.

(a) * * *

* * * * * * *

(e) ABATEMENT OF INTEREST ATTRIBUTABLE TO UNREASONABLE ERRORS AND DELAYS BY INTERNAL REVENUE SERVICE.—

(1) * * *

(2) INTEREST ABATED WITH RESPECT TO ERRONEOUS REFUND CHECK.—The Secretary shall abate the assessment of all interest on any erroneous refund under section 6602 until the date demand for repayment is made, [unless—

[(A) the taxpayer (or a related party) has in any way caused such erroneous refund, or

[(B) such erroneous refund exceeds $50,000.] *unless the taxpayer (or a related party) has in any way caused such erroneous refund.*

(f) ABATEMENT OF ANY [PENALTY OR ADDITION] *INTEREST, PENALTY, OR ADDITION* TO TAX ATTRIBUTABLE TO ERRONEOUS WRITTEN ADVICE BY THE INTERNAL REVENUE SERVICE.—

(1) IN GENERAL.—The Secretary shall abate any portion of any [penalty or addition] *interest, penalty, or addition* to tax attributable to erroneous advice furnished to the taxpayer in writing by an officer or employee of the Internal Revenue Service, acting in such officer's or employee's official capacity.

(2) LIMITATIONS.—Paragraph (1) shall apply only if—

(A) * * *

(B) the portion of the [penalty or addition] *interest, penalty, or addition* to tax did not result from a failure by the taxpayer to provide adequate or accurate information.

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CHAPTER 66—LIMITATIONS

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Subchapter D—Periods of Limitation in Judicial Proceedings

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SEC. 6532. PERIODS OF LIMITATION ON SUITS.

(a) * * *

* * * * * * *

(c) SUITS BY PERSONS OTHER THAN TAXPAYERS.—

(1) GENERAL RULE.—Except as provided by paragraph (2), no suit or proceeding under section 7426 shall be begun after the expiration of [9 months] *2 years* from the date of the levy or agreement giving rise to such action.

(2) PERIOD WHEN CLAIM IS FILED.—If a request is made for the return of property described in section 6343(b), the [9-month] *2-year* period prescribed in paragraph (1) shall be extended for a period of 12 months from the date of filing of such request or for a period of 6 months from the date of mailing by registered or certified mail by the Secretary to the person making such request of a notice of disallowance of the part of the request to which the action relates, whichever is shorter.

* * * * * * *

CHAPTER 67—INTEREST

Subchapter A—Interest on Underpayments

* * * * * * *

Subchapter E. Interest on failure by individual to pay estimated income tax.

Subchapter A—Interest on Underpayments

SEC. 6601. INTEREST ON UNDERPAYMENT, NONPAYMENT, OR EXTENSIONS OF TIME FOR PAYMENT, OF TAX.

(a) * * *

* * * * * * *

(h) EXCEPTION AS TO ESTIMATED TAX.—This section shall not apply to any failure to pay any estimated tax required to be paid by section [6654] *6641* or 6655.

* * * * * * *

SEC. 6603. DEPOSITS MADE TO SUSPEND RUNNING OF INTEREST ON POTENTIAL UNDERPAYMENTS, ETC.

(a) AUTHORITY TO MAKE DEPOSITS OTHER THAN AS PAYMENT OF TAX.—A taxpayer may make a cash deposit with the Secretary which may be used by the Secretary to pay any tax imposed under subtitle A or B or chapter 41, 42, 43, or 44 which has not been assessed at the time of the deposit. Such a deposit shall be made in such manner as the Secretary shall prescribe.

(b) NO INTEREST IMPOSED.—To the extent that such deposit is used by the Secretary to pay tax, for purposes of section 6601 (relating to interest on underpayments), the tax shall be treated as paid when the deposit is made.

(c) RETURN OF DEPOSIT.—Except in a case where the Secretary determines that collection of tax is in jeopardy, the Secretary shall return to the taxpayer any amount of the deposit (to the extent not used for a payment of tax) which the taxpayer requests in writing.

(d) PAYMENT OF INTEREST.—

(1) IN GENERAL.—For purposes of section 6611 (relating to interest on overpayments), a deposit which is returned to a taxpayer shall be treated as a payment of tax for any period to the extent (and only to the extent) attributable to a disputable tax for such period. Under regulations prescribed by the Secretary, rules similar to the rules of section 6611(b)(2) shall apply.

(2) DISPUTABLE TAX.—

(A) IN GENERAL.—For purposes of this section, the term "disputable tax" means the amount of tax specified at the time of the deposit as the taxpayer's reasonable estimate of the maximum amount of any tax attributable to disputable items.

(B) SAFE HARBOR BASED ON 30-DAY LETTER.—In the case of a taxpayer who has been issued a 30-day letter, the maximum amount of tax under subparagraph (A) shall not be less than the amount of the proposed deficiency specified in such letter.

(3) OTHER DEFINITIONS.—For purposes of paragraph (2)—

(A) DISPUTABLE ITEM.—The term "disputable item" means any item of income, gain, loss, deduction, or credit if the taxpayer—

(i) has a reasonable basis for its treatment of such item, and

(ii) reasonably believes that the Secretary also has a reasonable basis for disallowing the taxpayer's treatment of such item.

(B) 30-DAY LETTER.—The term "30-day letter" means the first letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals.

(4) RATE OF INTEREST.—The rate of interest allowable under this subsection shall be the Federal short-term rate determined under section 6621(b), compounded daily.

(e) USE OF DEPOSITS.—

(1) PAYMENT OF TAX.—Except as otherwise provided by the taxpayer, deposits shall be treated as used for the payment of tax in the order deposited.

(B) RETURNS OF DEPOSITS.—Deposits shall be treated as returned to the taxpayer on a last-in, first-out basis.

* * * * * * *

Subchapter C—Determination of Interest Rate; Compounding of Interest

* * * * * * *

SEC. 6621. DETERMINATION OF RATE OF INTEREST.

(a) * * *

(b) FEDERAL SHORT-TERM RATE.—For purposes of this section—

(1) * * *

(2) PERIOD DURING WHICH RATE APPLIES.—

(A) * * *

(B) SPECIAL RULE FOR INDIVIDUAL ESTIMATED TAX.—In determining the **[**addition to tax under section 6654**]** *interest required to be paid under section 6641* for failure to pay estimated tax for any taxable year, the Federal short-term rate which applies during the 3rd month following such taxable year shall also apply during the first 15 days of the 4th month following such taxable year.

* * * * * * *

(d) ELIMINATION OF INTEREST ON OVERLAPPING PERIODS OF TAX OVERPAYMENTS AND UNDERPAYMENTS.—To the extent that, for any period, interest is payable under subchapter A and allowable under subchapter B on equivalent underpayments and overpayments by the same taxpayer of tax imposed by this title, the net rate of interest under this section on such amounts shall be zero for such period. *Solely for purposes of the preceding sentence, section 6611(e) shall not apply in the case of an individual.*

* * * * * * *

SEC. 6622. INTEREST COMPOUNDED DAILY.

(a) * * *

(b) EXCEPTION FOR **[**PENALTY FOR**]** FAILURE TO FILE ESTIMATED TAX.—Subsection (a) shall not apply for purposes of computing the amount of any **[**addition to tax under section 6654 or 6655**]** *inter-*

est required to be paid under section 6641 or addition to tax under section 6655.

* * * * * * *

Subchapter E—Interest on Failure by Individual To Pay Estimated Income Tax

[SEC. 6654. FAILURE BY INDIVIDUAL TO PAY ESTIMATED INCOME TAX.

[(a) ADDITION TO THE TAX.—Except as otherwise provided in this section, in the case of any underpayment of estimated tax by an individual, there shall be added to the tax under chapter 1 and the tax under chapter 2 for the taxable year an amount determined by applying—

[(1) the underpayment rate established under section 6621,

[(2) to the amount of the underpayment,

[(3) for the period of the underpayment.

[(b) AMOUNT OF UNDERPAYMENT; PERIOD OF UNDERPAYMENT.—For purposes of subsection (a)—

[(1) AMOUNT.—The amount of the underpayment shall be the excess of—

[(A) the required installment, over

[(B) the amount (if any) of the installment paid on or before the due date for the installment.

[(2) PERIOD OF UNDERPAYMENT.—The period of the underpayment shall run from the due date for the installment to whichever of the following dates is the earlier—

[(A) the 15th day of the 4th month following the close of the taxable year, or

[(B) with respect to any portion of the underpayment, the date on which such portion is paid.

[(3) ORDER OF CREDITING PAYMENTS.—For purposes of paragraph (2)(B), a payment of estimated tax shall be credited against unpaid required installments in the order in which such installments are required to be paid.]

SEC. 6641. INTEREST ON FAILURE BY INDIVIDUAL TO PAY ESTIMATED INCOME TAX.

(a) IN GENERAL.—Interest shall be paid on any underpayment of estimated tax by an individual for a taxable year for each day of such underpayment. The amount of such interest for any day shall be the product of the underpayment rate established under subsection (b)(2) multiplied by the amount of the underpayment.

(b) AMOUNT OF UNDERPAYMENT; INTEREST RATE.—For purposes of subsection (a)—

(1) AMOUNT.—The amount of the underpayment on any day shall be the excess of—

(A) the sum of the required installments for the taxable year the due dates for which are on or before such day, over

(B) the sum of the amounts (if any) of estimated tax payments made on or before such day on such required installments.

(2) DETERMINATION OF INTEREST RATE.—

(A) IN GENERAL.—The underpayment rate with respect to any day in an installment underpayment period shall be the underpayment rate established under section 6621 for the first day of the calendar quarter in which such installment underpayment period begins.

(B) INSTALLMENT UNDERPAYMENT PERIOD.—For purposes of subparagraph (A), the term "installment underpayment period" means the period beginning on the day after the due date for a required installment and ending on the due date for the subsequent required installment (or in the case of the 4th required installment, the 15th day of the 4th month following the close of a taxable year).

(C) DAILY RATE.—The rate determined under subparagraph (A) shall be applied on a daily basis and shall be based on the assumption of 365 days in a calendar year.

(3) TERMINATION OF ESTIMATED TAX INTEREST.—No day after the end of the installment underpayment period for the 4th required installment specified in paragraph (2)(B) for a taxable year shall be treated as a day of underpayment with respect to such taxable year.

* * * * * * *

(d) AMOUNT OF REQUIRED INSTALLMENTS.—For purposes of this section—

(1) AMOUNT.—

(A) IN GENERAL.—Except as provided in paragraph (2), the amount of any required installment shall be 25 percent of the required annual payment.

(B) REQUIRED ANNUAL PAYMENT.—For purposes of subparagraph (A), the term "required annual payment" means the lesser of—

[(i) 90 percent of the tax shown on the return for the taxable year (or, if no return is filed, 90 percent of the tax for such year), or**]**

(i) the lesser of—

(I) 90 percent of the tax shown on the return for the taxable year (or, if no return is filed, 90 percent of the tax for such year), or

(II) the tax shown on the return for the taxable year (or, if no return is filed, the tax for such year) reduced (but not below zero) by $2,000, or

* * * * * * *

(e) EXCEPTIONS.—

[(1) WHERE TAX IS SMALL AMOUNT.—No addition to tax shall be imposed under subsection (a) for any taxable year if the tax shown on the return for such taxable year (or, if no return is filed, the tax), reduced by the credit allowable under section 31, is less than $1,000.**]**

[(2)**]** *(1)* WHERE NO TAX LIABILITY FOR PRECEDING TAXABLE YEAR.—No **[**addition to tax**]** *interest* shall be imposed under subsection (a) for any taxable year if—

(A) the preceding taxable year was a taxable year of 12 months,

(B) the individual did not have any liability for tax for the preceding taxable year, and

(C) the individual was a citizen or resident of the United States throughout the preceding taxable year.

[(3)] *(2)* WAIVER IN CERTAIN CASES.—

(A) IN GENERAL.—No [addition to tax] *interest* shall be imposed under subsection (a) with respect to any underpayment to the extent the Secretary determines that by reason of casualty, disaster, or other unusual circumstances the imposition of such [addition to tax] *interest* would be against equity and good conscience.

(B) NEWLY RETIRED OR DISABLED INDIVIDUALS.—No [addition to tax] *interest* shall be imposed under subsection (a) with respect to any underpayment if the Secretary determines that—

(i) the taxpayer—

(I) retired after having attained age 62, or

(II) became disabled,in the taxable year for which estimated payments were required to be made or in the taxable year preceding such taxable year, and

(ii) such underpayment was due to reasonable cause and not to willful neglect.

* * * * * * *

(h) SPECIAL RULE WHERE RETURN FILED ON OR BEFORE JANUARY 31.—If, on or before January 31 of the following taxable year, the taxpayer files a return for the taxable year and pays in full the amount computed on the return as payable, then no [addition to tax] *interest* shall be imposed under subsection (a) with respect to any underpayment of the 4th required installment for the taxable year.

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CHAPTER 68—ADDITIONS TO THE TAX, ADDITIONAL AMOUNTS, AND ASSESSABLE PENALTIES

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Subchapter A—Additions to the Tax, Additional Amounts

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PART I—GENERAL PROVISIONS

Sec. 6651. Failure to file tax return or to pay tax.

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[Sec. 6654. Failure by individual to pay estimated income tax.]

* * * * * * *

SEC. 6651. FAILURE TO FILE TAX RETURN OR TO PAY TAX.

(a) * * *

* * * * * * *

(i) TREATMENT OF FIRST-TIME UNINTENTIONAL MINOR ERRORS.—In the case of a return of tax imposed by subtitle A filed by an individual, the Secretary may waive an addition to tax under subsection (a) if—

(1) the individual has a history of compliance with the requirements of this title,

(2) it is shown that the failure is due to an unintentional minor error,

(3) the penalty would be grossly disproportionate to the action or expense that would have been needed to avoid the error, and

(4) waiving the penalty would promote compliance with the requirements of this title and effective tax administration.

The preceding sentence shall not apply if the Secretary has waived any addition to tax under this subsection with respect to any prior failure by such individual.

* * * * * * *

SEC. 6658. COORDINATION WITH TITLE 11.

(a) CERTAIN FAILURES TO PAY TAX.—No addition to the tax shall be made under section 6651, ⟦6654, or 6655⟧ *or 6655, and no interest shall be required to be paid under section 6641,* for failure to make timely payment of tax with respect to a period during which a case is pending under title 11 of the United States Code—

(1) if such tax was incurred by the estate and the failure occurred pursuant to an order of the court finding probable insufficiency of funds of the estate to pay administrative expenses, or

(2) if—

(A) * * *

(B)(i) * * *

(ii) the date for making the addition to the tax *or paying interest* occurs on or after the day on which the petition was filed.

* * * * * * *

PART III—APPLICABLE RULES

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SEC. 6665. APPLICABLE RULES.

(a) * * *

(b) PROCEDURE FOR ASSESSING CERTAIN ADDITIONS TO TAX.—For purposes of subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes), subsection (a) shall not apply to any addition to tax under section 6651⟦, 6654,⟧ or 6655; except that it shall apply —

(1) * * *

(2) to an addition described in section ⟦6654 or⟧ 6655, if no return is filed for the taxable year.

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Subchapter B—Assessable Penalties

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PART I—GENERAL PROVISIONS

[SEC. 6702. FRIVOLOUS INCOME TAX RETURN.

[(a) CIVIL PENALTY.—If—

[(1) any individual files what purports to be a return of the tax imposed by subtitle A but which—

[(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

[(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

[(2) the conduct referred to in paragraph (1) is due to—

[(A) a position which is frivolous, or

[(B) a desire (which appears on the purported return) to delay or impede the administration of Federal income tax laws,then such individual shall pay a penalty of $500.

[(b) PENALTY IN ADDITION TO OTHER PENALTIES.—The penalty imposed by subsection (a) shall be in addition to any other penalty provided by law.]

SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.

(a) CIVIL PENALTY FOR FRIVOLOUS TAX RETURNS.—A person shall pay a penalty of $5,000 if—

(1) such person files what purports to be a return of a tax imposed by this title but which—

(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

(2) the conduct referred to in paragraph (1)—

(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or

(B) reflects a desire to delay or impede the administration of Federal tax laws.

(b) CIVIL PENALTY FOR SPECIFIED FRIVOLOUS SUBMISSIONS.—

(1) IMPOSITION OF PENALTY.—Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of $5,000.

(2) SPECIFIED FRIVOLOUS SUBMISSION.—For purposes of this section—

(A) SPECIFIED FRIVOLOUS SUBMISSION.—The term "specified frivolous submission" means a specified submission if any portion of such submission—

(i) is based on a position which the Secretary has identified as frivolous under subsection (c), or

(ii) reflects a desire to delay or impede the administration of Federal tax laws.

(B) SPECIFIED SUBMISSION.—The term "specified submission" means—

(i) a request for a hearing under—

(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or

(II) section 6330 (relating to notice and opportunity for hearing before levy), and

(ii) an application under—

(I) section 7811 (relating to taxpayer assistance orders),

(II) section 6159 (relating to agreements for payment of tax liability in installments), or

(III) section 7122 (relating to compromises).

(3) OPPORTUNITY TO WITHDRAW SUBMISSION.—If the Secretary provides a person with notice that a submission is a specified frivolous submission and such person withdraws such submission promptly after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission.

(c) LISTING OF FRIVOLOUS POSITIONS.—The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall not include in such list any position that the Secretary determines meets the requirement of section 6662(d)(2)(B)(ii)(II).

(d) REDUCTION OF PENALTY.—The Secretary may reduce the amount of any penalty imposed under this section if the Secretary determines that such reduction would promote compliance with and administration of the Federal tax laws.

(e) PENALTIES IN ADDITION TO OTHER PENALTIES.—The penalties imposed by this section shall be in addition to any other penalty provided by law.

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CHAPTER 74—CLOSING AGREEMENTS AND COMPROMISES

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SEC. 7122. COMPROMISES.

(a) * * *

(b) RECORD.—[Whenever a compromise is made by the Secretary in any case, there shall be placed on file in the office of the Secretary the opinion of the General Counsel for the Department of the Treasury or his delegate] *If the Secretary determines that an opinion of the General Counsel for the Department of the Treasury, or the Counsel's delegate, is required with respect to a compromise, there shall be placed on file in the office of the Secretary such opinion*, with his reasons therefor, with a statement of—

(1) The amount of tax assessed,

(2) The amount of interest, additional amount, addition to the tax, or assessable penalty, imposed by law on the person against whom the tax is assessed, and

(3) The amount actually paid in accordance with the terms of the compromise.

[Notwithstanding the foregoing provisions of this subsection, no such opinion shall be required with respect to the compromise of any civil case in which the unpaid amount of tax assessed (including any interest, additional amount, addition to the tax, or assess-

able penalty) is less than $50,000. However, such compromise shall be subject to continuing quality review by the Secretary.]

* * * * * * *

(e) FRIVOLOUS SUBMISSIONS, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of an application for an offer-in-compromise or installment agreement submitted under this section or section 6159 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.

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CHAPTER 75—CRIMES, OTHER OFFENSES, AND FORFEITURES

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Subchapter A—Crimes

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PART I—GENERAL PROVISIONS

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SEC. 7203. WILLFUL FAILURE TO FILE RETURN, SUPPLY INFORMATION, OR PAY TAX.

Any person required under this title to pay any estimated tax or tax, or required by this title or by regulations made under authority thereof to make a return, keep any records, or supply any information, who willfully fails to pay such estimated tax or tax, make such return, keep such records, or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $25,000 ($100,000 in the case of a corporation), or imprisoned not more than 1 year, or both, together with the costs of prosecution. In the case of any person with respect to whom there is a failure to pay any estimated tax, this section shall not apply to such person with respect to such failure if there is no addition to tax under [section 6654 or 6655] *section 6655 or interest required to be paid under section 6641* with respect to such failure. In the case of a willful violation of any provision of section 6050I, the first sentence of this section shall be applied by substituting "felony" for "misdemeanor" and "5 years" for "1 year".

* * * * * * *

SEC. 7207. FRAUDULENT RETURNS, STATEMENTS, OR OTHER DOCUMENTS.

Any person who willfully delivers or discloses to the Secretary any list, return, account, statement, or other document, known by him to be fraudulent or to be false as to any material matter, shall be fined not more than $10,000 ($50,000 in the case of a corporation), or imprisoned not more than 1 year, or both. Any person re-

quired [pursuant to subsection (b) of section 6047 or pursuant to subsection (d) of section 6104] *pursuant to section 6047(b), section 6104(d), or subsection (i) or (j) of section 527* to furnish any information to the Secretary or any other person who willfully furnishes to the Secretary or such other person any information known by him to be fraudulent or to be false as to any material matter shall be fined not more than $10,000 ($50,000 in the case of a corporation), or imprisoned not more than 1 year, or both.

* * * * * * *

SEC. 7213. UNAUTHORIZED DISCLOSURE OF INFORMATION.

(a) RETURNS AND RETURN INFORMATION.—

(1) * * *

(2) STATE AND OTHER EMPLOYEES.—It shall be unlawful for any person (not described in paragraph (1)) willfully to disclose to any person, except as authorized in this title, any return or return information (as defined in section 6103(b)) acquired by him or another person under subsection (d), (i)(3)(B)(i), (l)(6), (7), (8), (9), (10), or (12), (15), or (16) or (m)(2), (4), (5), (6), or (7) of section 6103 *or under section 6104(c)*. Any violation of this paragraph shall be a felony punishable by a fine in any amount not exceeding $5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

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SEC. 7213A. UNAUTHORIZED INSPECTION OF RETURNS OR RETURN INFORMATION.

(a) PROHIBITIONS.—

(1) * * *

(2) STATE AND OTHER EMPLOYEES.—It shall be unlawful for any person (not described in paragraph (1)) willfully to inspect, except as authorized in this title, any return or return information acquired by such person or another person under a provision of section 6103 *or 6104(c)* referred to in section 7213(a)(2).

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CHAPTER 76—JUDICIAL PROCEEDINGS

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Subchapter B—Proceedings by Taxpayers and Third Parties

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SEC. 7428. DECLARATORY JUDGMENTS RELATING TO STATUS AND CLASSIFICATION OF ORGANIZATIONS UNDER SECTION 501(C)(3), ETC.

(a) CREATION OF REMEDY.—In a case of actual controversy involving—

(1) a determination by the Secretary—

(A) with respect to the initial qualification or continuing qualification of an organization as an organization described in section 501(c)(3) which is exempt from tax under

section 501(a) or as an organization described in section 170(c)(2),

(B) with respect to the initial classification or continuing classification of an organization as a private foundation (as defined in section 509(a)) *or as a private operating foundation (as defined in section 4942(j)(3))*, or

[(C) with respect to the initial classification or continuing classification of an organization as a private operating foundation (as defined in section 4942(j)(3)), or]

(C) with respect to the initial qualification or continuing qualification of an organization as an organization described in section 501(c) (other than paragraph (3)) which is exempt from tax under section 501(a), or

* * * * * * *

upon the filing of an appropriate pleading, the [United States Tax Court, the United States Claims Court, or the district court of the United States for the District of Columbia] *United States Tax Court (in the case of any such determination or failure) or the United States Claims Court or the district court of the United States for the District of Columbia (in the case of a determination or failure with respect to an issue referred to in subparagraph (A) or (B) of paragraph (1)),* may make a declaration with respect to such initial qualification or continuing qualification or with respect to such initial classification or continuing classification. Any such declaration shall have the force and effect of a decision of the Tax Court or a final judgment or decree of the district court or the Claims Court, as the case may be, and shall be reviewable as such. For purposes of this section, a determination with respect to a continuing qualification or continuing classification includes any revocation of or other change in a qualification or classification.

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SEC. 7431. CIVIL DAMAGES FOR UNAUTHORIZED INSPECTION OR DISCLOSURE OF RETURNS AND RETURN INFORMATION.

(a) IN GENERAL.—

(1) * * *

(2) INSPECTION OR DISCLOSURE BY A PERSON WHO IS NOT AN EMPLOYEE OF THE UNITED STATES.—If any person who is not an officer or employee of the United States knowingly, or by reason of negligence, inspects or discloses any return or return information with respect to a taxpayer in violation of any provision of section 6103 *(including any disclosure in violation of section 6104(c))*, such taxpayer may bring a civil action for damages against such person in a district court of the United States.

* * * * * * *

(e) NOTIFICATION OF UNLAWFUL INSPECTION AND DISCLOSURE.—If any person is criminally charged by indictment or information with inspection or disclosure of a taxpayer's return or return information in violation of—

(1) paragraph (1) or (2) of section 7213(a),

(2) section 7213A(a), or

(3) subparagraph (B) of section 1030(a)(2) of title 18, United States Code, the Secretary shall notify such taxpayer as soon as practicable of such inspection or disclosure.

The Secretary shall also notify such taxpayer if the Treasury Inspector General for Tax Administration determines that such taxpayer's return or return information was inspected or disclosed in violation of any of the provisions specified in paragraph (1), (2), or (3).

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CHAPTER 77—MISCELLANEOUS PROVISIONS

SEC. 7526. LOW-INCOME TAXPAYER CLINICS.

(a) * * *

(b) DEFINITIONS.—For purposes of this section—

(1) QUALIFIED LOW-INCOME TAXPAYER CLINIC.—

(A) IN GENERAL.—The term "qualified low-income taxpayer clinic" means a clinic that—

(i) * * *

* * * * * * *

The term does not include a clinic that provides routine tax return preparation. The preceding sentence shall not apply to return preparation in connection with a controversy with the Internal Revenue Service.

* * * * * * *

(c) SPECIAL RULES AND LIMITATIONS.—

(1) AGGREGATE LIMITATION.—Unless otherwise provided by specific appropriation, the Secretary shall not allocate more than ❲$6,000,000 per year❳ *$9,000,000 for 2002, $12,000,000 for 2003, and $15,000,000 for each year thereafter* (exclusive of costs of administering the program) to grants under this section.

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(7) PROMOTION OF CLINICS.—The Secretary is authorized to promote the benefits of and encourage the use of low-income taxpayer clinics through the use of mass communications, referrals, and other means.

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SEC. 7527. ENROLLED AGENTS.

(a) IN GENERAL.—The Secretary may prescribe such regulations as may be necessary to regulate the conduct of enrolled agents in regards to their practice before the Internal Revenue Service.

(b) USE OF CREDENTIALS.—Any enrolled agents properly licensed to practice as required under rules promulgated under section (a) herein shall be allowed to use the credentials or designation as "enrolled agent", "EA", or "E.A.".

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CHAPTER 78—DISCOVERY OF LIABILITY AND ENFORCEMENT OF TITLE

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Subchapter A—Examination and Inspection

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SEC. 7611. RESTRICTIONS ON CHURCH TAX INQUIRIES AND EXAMINATIONS.

(a) * * *

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(i) SECTION NOT TO APPLY TO CRIMINAL INVESTIGATIONS, ETC.—This section shall not apply to—

(1) * * *

* * * * * * *

(4) any willful attempt to defeat or evade any tax imposed by this title, **[**or**]**

(5) any knowing failure to file a return of tax imposed by this title**[**.**]**, *or*

(6) information provided by the Secretary related to the standards for exemption from tax under this title and the requirements under this title relating to unrelated business taxable income.

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CHAPTER 80—GENERAL RULES

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Subchapter A—Application of Internal Revenue Laws

Sec. 7801. Authority of the Department of the Treasury.

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Sec. 7804A. Disciplinary actions for misconduct.

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SEC. 7803. COMMISSIONER OF INTERNAL REVENUE; OTHER OFFICIALS.

(a) * * *

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(d) ADDITIONAL DUTIES OF THE TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION.—

(1) * * *

(2) SEMIANNUAL REPORTS.—

(A) IN GENERAL.—The Treasury Inspector General for Tax Administration shall include in each semiannual report under section 5 of the Inspector General Act of 1978—

(i) the number of taxpayer complaints during the reporting period;

(ii) the number of employee misconduct and taxpayer abuse allegations received by the Internal Revenue Service or the Inspector General during the period from taxpayers, Internal Revenue Service employees, and other sources*, including a summary (by category) of the 10 most common complaints made and the number of such common complaints*;

* * * * * * *

SEC. 7804A. DISCIPLINARY ACTIONS FOR MISCONDUCT.

(a) DISCIPLINARY ACTIONS.—

(1) IN GENERAL.—Subject to subsection (c), the Commissioner shall take an action in accordance with the guidelines established under paragraph (2) against any employee of the Internal Revenue Service if there is a final administrative or judicial determination that such employee committed any act or omission described under subsection (b) in the performance of the employee's official duties or where a nexus to the employee's position exists.

(2) GUIDELINES.—The Commissioner shall issue guidelines for determining the appropriate level of discipline, up to and including termination of employment, for committing any act or omission described under subsection (b).

(b) ACTS OR OMISSIONS.—The acts or omissions described under this subsection are—

(1) willful failure to obtain the required approval signatures on documents authorizing the seizure of a taxpayer's home, personal belongings, or business assets;

(2) willfully providing a false statement under oath with respect to a material matter involving a taxpayer or taxpayer representative;

(3) with respect to a taxpayer or taxpayer representative, the willful violation of—

(A) any right under the Constitution of the United States;

(B) any civil right established under—

(i) title VI or VII of the Civil Rights Act of 1964;

(ii) title IX of the Education Amendments of 1972;

(iii) the Age Discrimination in Employment Act of 1967;

(iv) the Age Discrimination Act of 1975;

(v) section 501 or 504 of the Rehabilitation Act of 1973; or

(vi) title I of the Americans with Disabilities Act of 1990; or

(C) the Internal Revenue Service policy on unauthorized inspection of returns or return information;

(4) willfully falsifying or destroying documents to conceal mistakes made by any employee with respect to a matter involving a taxpayer or taxpayer representative;

(5) assault or battery on a taxpayer or taxpayer representative, but only if there is a criminal conviction, or a final adverse judgment by a court in a civil case, with respect to the assault or battery;

(6) willful violations of this title, Department of the Treasury regulations, or policies of the Internal Revenue Service (includ-

ing the Internal Revenue Manual) for the purpose of retaliating against, or harassing, a taxpayer or taxpayer representative;

(7) willful misuse of the provisions of section 6103 for the purpose of concealing information from a congressional inquiry;

(8) willful failure to file any return of tax required under this title on or before the date prescribed therefor (including any extensions) when a tax is due and owing, unless such failure is due to reasonable cause and not due to willful neglect;

(9) willful understatement of Federal tax liability, unless such understatement is due to reasonable cause and not due to willful neglect; and

(10) threatening to audit a taxpayer, or to take other action under this title, for the purpose of extracting personal gain or benefit.

(c) DETERMINATIONS OF COMMISSIONER.—

(1) IN GENERAL.—The Commissioner may take a personnel action other than a disciplinary action provided for in the guidelines under subsection (a)(2) for an act or omission described under subsection (b).

(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may not be delegated to any other officer. The Commissioner, in his sole discretion, may establish a procedure to determine if an individual should be referred to the Commissioner for a determination by the Commissioner under paragraph (1).

(3) NO APPEAL.—Notwithstanding any other provision of law, any determination of the Commissioner under this subsection may not be reviewed in any administrative or judicial proceeding. A finding that an act or omission described under subsection (b) occurred may be reviewed.

(d) DEFINITION.—For the purposes of the provisions described in clauses (i), (ii), and (iv) of subsection (b)(3)(B), references to a program or activity regarding Federal financial assistance or an education program or activity receiving Federal financial assistance shall include any program or activity conducted by the Internal Revenue Service for a taxpayer.

(e) ANNUAL REPORT.—The Commissioner shall submit to Congress annually a report on disciplinary actions under this section.

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SEC. 7811. TAXPAYER ASSISTANCE ORDERS.

(a) * * *

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(d) SUSPENSION OF RUNNING OF PERIOD OF LIMITATION.—The running of any period of limitation with respect to any action described in subsection (b) shall be suspended for—

(1) the period beginning on the date of the taxpayer's application under subsection (a) and ending on the date of the National Taxpayer Advocate's decision with respect to such application, *but only if the date of such decision is at least 7 days after the date of the taxpayer's application*; and

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SECTION 202 OF THE GOVERNMENT SECURITIES ACT AMENDMENTS OF 1993

SEC. 202. TREASURY AUCTION REFORMS.

(a) * * *

* * * * * * *

(c) MEETINGS OF TREASURY BORROWING ADVISORY COMMITTEE.—

(1) * * *

* * * * * * *

(4) PROHIBITION ON OUTSIDE DISCUSSIONS.—

(A) * * *

(B) APPLICABLE PERIOD OF PROHIBITION.—The prohibition contained in subparagraph (A) on discussions and disclosures of any discussion, debate, or recommendation at a meeting of the advisory committee shall cease to apply—

(i) with respect to any discussion, debate, or recommendation which relates to the securities to be auctioned in a midquarter refunding by the Secretary of the Treasury, at the time the Secretary makes a public announcement of the refunding *(or, if earlier, at the time the Secretary releases the minutes of the meeting in accordance with paragraph (2))*; and

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